

scram under all operating conditions when two recirculation pumps trip (or there are no pumps operating) with the reactor in the RUN mode;

b. Ensure that factors important to core stability characteristics (e.g., radial and axial peaking, feedwater temperature, and thermal hydraulic compatibility of mixed fuel types) are controlled within appropriate limits consistent with the core design, power/flow exclusion boundaries, and core monitoring capabilities of the reactor in question, and that these factors are controlled through procedures governing changes in reactor power, including startup and shutdown, particularly at low-flow operating conditions. If it is concluded that a near-term upgrade of core monitoring capability is called for to ease the burden on operators, determine the need to incorporate on-line stability monitoring or improved power distribution and thermal limits monitors, and inform the NRC of the schedule for such upgrades found to be necessary. The procedural operation controls implemented for the interim corrective actions should be considered for retention as appropriate to complement plant specific long-term solution approaches.

2. By January 31, 1994, all BWR licensees, except for Big Rock Point, are requested to develop and submit to the NRC a plan for long-term stability corrective actions, including design specifications for any hardware modifications or additions to facilitate manual or automatic protective response needed to ensure that the plant is in compliance with General Design Criteria 10 and 12. An acceptable plan could provide for implementing one of the long-term stability solution options proposed by the BWROG and approved by the NRC in Reference 3 or in subsequent documentation. The plan should include a description of the action proposed and a schedule of any submittals requiring plant-specific design review and approval by the NRC and an installation schedule (if applicable). The plan should also address the need for near-term and long-term technical specification modifications.

Reporting Requirements

Pursuant to Section 182a of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f), each holder of a BWR operating license, except for Big Rock Point, shall:

1. Within sixty (60) days of the date of this letter:

a. Inform the NRC, in writing and under oath or affirmation, of the

licensee's plans and status with respect to the actions requested in this letter;

b. If the licensee does not plan to take an action requested in this letter, the reasons for not taking the action, a description of the nature of any substitute action, and a schedule for completing or implementing the substitute action;

2. If the licensee plans to take an action requested, or a substitute action, within thirty (30) days of the completion of the action inform the NRC, in writing and under oath or affirmation, of the action taken and verify its completion or implementation.

Each submittal shall be addressed to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555. A copy shall also be submitted to the appropriate Regional Administrator.

This generic letter requests information that will enable the NRC to verify that the licensee is complying with its current licensing basis regarding GDC 10 and 12. Accordingly, an evaluation justifying this information request is not necessary under 10 CFR 50.54(f).

References

1. NEDO-31960, "BWR Owners' Group, Long-Term Stability Solution Licensing Methodology," May 1991.
2. NEDO-31960, Supplement 1, "BWR Owners' Group Long-Term Stability Solutions Licensing Methodology," March 1992.
3. Letter from A. Thadani, NRC, to L.A. England, Chairman, BWR Owners' Group, Acceptance for Referencing of Topical Reports NEDO-31960 and NEDO-31960, Supplement 1, "BWR Owners' Group Long-Term Stability Solutions Licensing Methodology," dated July 1993.
4. Letter from J.B. Martin, NRC, to A.L. Oxsen, Washington Public Power Supply System, "NRC Augmented Inspection of Washington Nuclear Project, Unit 2", September 29, 1992.

Backfit Discussion

This generic letter defines the requested actions and reporting requirements to be met by all holders of BWR operating licenses, except for Consumers Power Company (Big Rock Point), in order to enhance the current interim corrective action and to provide a long-term solution to the issue of thermal-hydraulic instabilities in BWRs. The staff has concluded that these requested actions and reporting requirements are a backfit that is necessary to ensure compliance with GDC 10 and 12. The basis for the

determination is stated in the preceding discussion of the generic letter. Accordingly, pursuant to 10 CFR 50.109(a)(4)(i), a backfit analysis is not required.

Dated at Rockville, Maryland, this 14th day of July, 1993.

For The Nuclear Regulatory Commission.
Gail H. Marcus,
Chief, Generic Communications Branch,
Division of Operating Reactor Support Office
of Nuclear Reactor Regulation.
[FR Doc. 93-17301 Filed 7-20-93; 8:45 am]
BILLING CODE 7590-01-M

Biweekly Notice

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from June 25, 1993, through July 9, 1993. The last biweekly notice was published on July 7, 1993 (58 FR 36423).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity For a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3)

involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the *Federal Register* a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this *Federal Register* notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By August 20, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should

consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish

those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this *Federal Register* notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory

Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: June 11, 1993

Description of amendment request: The proposed amendment revises Technical Specification Surveillance Requirement 4.1.1.1.1 pertaining to the determination of shutdown margin by adding an "and" at the end of 4.1.1.1.1.c and removing the "and" and adding a semicolon at the end of 4.1.1.1.1.d. It also proposes to change the reference to 4.1.1.1.1.e in Surveillance Requirement 4.1.1.1.2 to read 4.1.1.1.1.d.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

These administrative changes to Technical Specification Surveillance Requirement 4.1.1.1.1 have no effect on equipment, procedures or accident initiators. Therefore, there would be no increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Since these are administrative changes, there are no modifications or additions to the plant equipment. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not affect parameters which relate to the margin of safety as defined in the Technical

Specifications. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602. *NRC Acting Project Director:* S. Singh Bajwa

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: June 17, 1993

Description of amendment request: The proposed amendments would modify Technical Specification (TS) 5.3.1, Design Features of Fuel Assemblies, in accordance with the NRC's Generic Letter (GL) 90-02, Supplement 1, "Alternative Requirements for Fuel Assemblies in the Design Features Section of Technical Specifications." The licensee proposes to adopt the model TS provided with Supplement 1 to the GL. This change would provide flexibility in the repair of fuel assemblies containing damaged and leaking fuel rods by reconstituting the assemblies.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change to the requirements for "Fuel Assemblies" in the "Design Features" section of TS will not involve a significant increase in the probability or consequences of an accident previously evaluated because the modification merely provides a broader blanket under which any future specific modifications to the plant or changes to its safety analysis may be performed, while still requiring that any such changes meet the same standards and criteria that they would have been subject to.

The creation of a new or different kind of accident from any previously evaluated accident is not considered a possibility because the change is administrative in nature and does not represent an actual modification to the plant or change to its safety analyses.

The margin of safety is maintained by adherence to other fuel related TS limits and

the FSAR [Final Safety Analysis Report] design bases. The change does not directly affect any safety system or the safety limits, and thus does not affect the plant margin of safety.

Accordingly, this proposed change does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: June 23, 1993, as supplemented July 1, 1993

Description of amendment request: The proposed amendments would be a one time change to make the allowable combined bypass leakage rate given in Technical Specification 3.6.1.2 a value of 0.104 L_a from the current value of 0.07 L_a for Unit 1, Cycle 9.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) *Involve a significant increase in the probability or consequences of an accident previously evaluated:*

The increase in leakage through the main steam penetration bellows results in an increase in the consequence for accidents which require containment integrity for accident mitigation. Analysis of these accidents show that all dose consequences are within the McGuire licensing limits considering increased containment bypass leakage. There is no increase in the probability of an accident since no accident initiators are involved with this change.

(2) *Create the possibility of a new or different kind of accident from any accident previously evaluated:*

Operation of McGuire Unit 1 in accordance with the revised containment bypass leakage rate will not create any failure modes not bounded by previously evaluated accidents. Consequently, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Involve a significant reduction in a margin of safety;

While the conservatively measured leakage through one mechanical penetration bellows increased this outage, this leakage represents a small fraction of the allowable containment leakage. The proposed Technical Specification change increases the allowable containment bypass leakage rate. This still assumes that the containment remains operable and performs its safety function. The proposed changes to the Technical Specifications will not impact the overall performance of the containment and will not prevent it from performing its safety function. Even with the Technical Specification change, the containment will continue to prevent uncontrolled releases to the environment. All other fission product barriers remain in place and function to limit accident consequences. In the event of a postulated design basis accident (DBA), the proposed Technical Specification change would not result in doses in excess of NRC acceptance criteria. Analysis results indicated a very slight increase in the radiation dose to control room personnel. Accordingly, the proposed Technical Specification change would not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room
location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: March 19, 1993

Description of amendment request: The proposed amendment would change Technical Specification 4.18.6 and Table 4.18-2 to make the requirements for C-3 reports consistent with the Babcock & Wilcox Standard Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

[The proposed change] Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change does not affect reactor operations or accident analyses and has no radiological consequences. The proposed change deletes a purely administrative burden and provides clarification to existing Technical Specification requirements concerning Category C-3 Reports. Therefore this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

[The proposed change] Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed change deletes an administrative requirement and provides clarification to existing Technical Specification requirements. Since the proposed amendment would not change the design, configuration or method of operation of the plant, it would not create the possibility of a new or different kind of accident from any previously evaluated.

[The proposed change] Does Not Involve a Significant Reduction in the Margin of Safety.

The proposed change is administrative and concerns reporting requirements only. It does not change a safety limit, an LCO [limiting condition for operation], or a surveillance requirement on equipment required to operate the plant. The NRC retains the authority to review Entergy endeavors and take whatever action deemed necessary to ensure public health and safety. Therefore, no significant reduction in Margin of Safety is incurred.

Based on the above evaluation it is concluded that the proposed Technical Specification change does not constitute a significant hazards concern.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room
location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Terence L. Chan (Acting)

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: May 7, 1993

Description of amendment request: The amendment would change Technical Specification (TS) 6.12.3 by replacing the current references to Babcock & Wilcox topical reports with references to BAW-10179P-A, "Safety Criteria and Methodology for Acceptable Cycle Reload Analyses."

The specification would also indicate that the approved revision number would be identified in the Core Operating Limits Report (COLR).

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The removal of specific methodologies from the administrative controls section of [the] Technical Specifications and referencing them in a specific topical report (BAW-10179P-A) has no impact on plant operation or safety. This change is administrative in nature. The proposed change does not affect the safety analyses, physical design, or operation of the plant. Future revisions to BAW-10179P-A will be reviewed and approved by the NRC prior to use for reload analyses.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from Any Previously Evaluated

The proposed change is administrative in nature. No physical alterations of plant configuration, changes to plant operating procedures or operating parameters are proposed. Because no new equipment is being introduced, and no equipment is being operated in a manner inconsistent with its design, the possibility of equipment malfunction is not increased. Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3 - Does Not Involve a Significant Reduction in a Margin of Safety

The proposed changes are administrative in nature and do not relate to or modify the safety margins defined in and maintained by the Technical Specifications. NRC review and approval of the methodologies used to perform the ANO-1 cycle-specific reload analysis is not affected by this change.

Therefore, this change does not involve a significant reduction in the margin of safety.

Therefore, based upon the reasoning presented above and the discussion of this amendment request, Entergy Operations has determined that the requested change does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room
location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Terence L. Chan, Acting

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: June 25, 1993

Description of amendment request: This amendment proposes to modify the technical specifications to reflect appropriate portions of the guidance of NUREG-1434 (including relocating required surveillance and other editorial changes). In addition, the licensee proposes to relocate to plant administrative control procedures the requirement for the 31 day surveillance of the blowers and heaters identified in NUREG-1434 and the current technical specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

The relocation of the control of these surveillance requirements relating to the main steam isolation valve leakage control system (MSIV-LCS) involve no substantive changes to the surveillance and operability requirements currently contained in the Grand Gulf Nuclear Station (GGNS) Technical Specification (TS). The details of the surveillance requirements are currently in plant procedures. GGNS adheres to a policy of verbatim compliance with all plant procedures.

The information will be adequately controlled via the administrative requirements specified in TS 6.8 and TS 6.5.3. Those requirements include review of changes for unreviewed safety questions in accordance with the provisions of 10 CFR 50.59. The requirements of 10 CFR 50.59 include a review of the evaluated change for impact on the probability or consequences of an accident previously evaluated. The requirements of 10 CFR 50.59 prevent any evaluated change which increases the probability or consequences of an accident previously evaluated from being made without prior NRC approval. These changes, therefore, constitute an administrative revision only.

Therefore, there is no significant increase in the probability or consequences of a previously evaluated accident due to the proposed changes.

b. This change would not create the possibility of a new or different kind of accident from any previously analyzed.

The relocation of the control of these surveillance requirements involve no substantive changes to the surveillance and operability requirements currently contained in the Grand Gulf Nuclear Station (GGNS) Technical Specification (TS). The details of the surveillance requirements are currently in plant procedures. GGNS adheres to a policy of verbatim compliance with all plant procedures.

The information will be adequately controlled via the administrative requirements in TS 6.8 and TS 6.5.3. Those requirements include review of changes for unreviewed safety questions in accordance with the provisions of 10 CFR 50.59. The requirements of 10 CFR 50.59 include a review of the evaluated change to ensure that the change would not create the possibility of a new or different kind of accident from any previously analyzed. The requirements of 10 CFR 50.59 prevent any evaluated change which would not create the possibility of a new or different kind of accident from any previously analyzed from being made without prior NRC approval. These changes, therefore, constitute an administrative revision only.

Therefore, the possibility of a new or different kind of accident from any previously evaluated is not created.

c. This change would not involve a significant reduction in the margin of safety.

The relocation of the control of these surveillance requirements involve no substantive changes to the surveillance and operability requirements currently contained in the Grand Gulf Nuclear Station (GGNS) Technical Specification (TS). The details of the surveillance requirements are currently in plant procedures. GGNS adheres to a policy of verbatim compliance with all plant procedures.

The information will be adequately controlled via the administrative requirements in TS 6.8 and TS 6.5.3. Those requirements include review of changes for unreviewed safety questions in accordance with the provisions of 10 CFR 50.59. The requirements of 10 CFR 50.59 include a review of the evaluated change for impact on the margin of safety. The requirements of 10 CFR 50.59 prevent any evaluated change which decreases the margin of safety from being made without prior NRC approval. These changes, therefore, constitute an administrative revision only.

Therefore, the proposed TS changes do not involve a significant reduction in a margin of safety.

Based on the above evaluation, Entergy Operations, Inc. has concluded that operation in accordance with the proposed amendment involves no significant hazards considerations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Judge George W. Armstrong

Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: Terence L. Chan (Acting)

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: June 21, 1993

Description of amendment request: The proposed amendments will change Technical Specifications (TS) Section 6.0, "Administrative Controls," by (a) revising unit staff titles to those of the current FPL Nuclear Division organization, (b) revising the composition of the Facility Review Group (FRG) to broaden the scope of available expertise, and (c) making minor editorial corrections.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Pursuant to 10 CFR 50.92, a determination may be made that a proposed license amendment involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Each standard is discussed as follows:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment revises certain administrative controls and does not alter any parameter or equipment reliability assumptions that are contained in the plant safety analyses to evaluate the consequences of an accident. Technical Specifications that are in place to preserve safety analysis assumptions or that provide assurance that the unit operating staff qualifications are acceptable have not been changed. Therefore, operation of the facility in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will not change the physical plant or the modes of plant operation defined in the Facility License. Therefore, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

Changes proposed for the composition of the Facility Review Group will expand the scope of available expertise represented in that group and preserve its currently established qualifications, safety-related functions, responsibilities, and authority. The proposed amendment will not change the basis for any Technical Specification that is related to the establishment of or maintenance of nuclear safety margins. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

Based on the discussion presented above and on the supporting Evaluation of Proposed TS Changes, FPL has concluded that this proposed license amendment involves no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room
location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: June 28, 1993

Description of amendment request: The proposed amendments would revise the Hatch Units 1 and 2 Technical Specifications (TS), Appendix A to Operating Licenses DRP-57 and NPF-5. Specifically, the request is to revise Unit 1 TS 3.7.A.4 and Unit 2 TS 3.6.4.1, and their associated Bases, to allow one or more suppression chamber - drywell vacuum breakers to open during surveillance testing or when performing their intended function without considering them inoperable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The accident of concern which requires vacuum breaker operability is the loss of coolant accident (LOCA). The requirement for all suppression chamber - drywell vacuum breakers to be closed ensures steam from a postulated LOCA is directed through the vent lines and is discharged under the water in the suppression chamber where it is condensed. If this steam avoids being condensed by traveling directly from the drywell to the suppression chamber air space through an open vacuum breaker, it could cause an unacceptable increase in containment pressure.

The Unit 2 hydrogen recombiner functional test involves operating the recombiner for 3 hours and is performed once per 6 months on each recombiner. Therefore, the total time any vacuum breaker may be open for this reason is approximately 12 hours per year. Since Unit 1 does not have a hydrogen recombiner system installed, the Unit 1 vacuum breakers would never be open for this reason. Since inerting and deinerting are only performed during plant startup and shutdown, vacuum breaker opening for this reason is also extremely infrequent. The probability of a LOCA occurring during one of these brief time periods is extremely small. Since the differential pressure increase is gradual for the above operations, it is expected that the degree of vacuum breaker opening is small. If a LOCA were to occur during this time, the resultant drywell - pressure increase would force the vacuum breakers back to their closed position, thus eliminating the bypass leakage path. Since this proposed amendment will only allow vacuum breakers to open for a very short period of time, and the vacuum breakers would close if required to do so, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The possibility of vacuum breakers being open and the effect this could have on containment response to a LOCA have already been analyzed. In this situation, the vacuum breakers will be opening to relieve differential pressure between the suppression chamber and the drywell. Thus, the vacuum breakers would be operating per design for the purpose of performing their intended function. Allowing vacuum breakers to be open under these circumstances will not result in any new modes of plant operation or create any new failure modes. Therefore, the proposed amendment does not create the possibility of a new or different kind of

accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

In the unlikely event a LOCA were to occur during the brief period of time the vacuum breakers are open, the resultant rapid increase in drywell pressure would cause the vacuum breakers to close. This would eliminate the bypass leakage path, and the containment pressure response to the LOCA would match the analyzed response. The resultant peak pressure would not exceed the design acceptance limit and the margin of safety would be unaffected. Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment request involves no significant hazards consideration.

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location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: David B. Matthews

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: March 24, 1993

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) by modifying the requirements of the TS Section 3.8/4.8 to improve organization and clarity. This is part of the Duane Arnold TS improvement program. This amendment request also proposes, upon the loss of one emergency diesel generator, to eliminate the requirement to synchronize to the grid while determining operability of the remaining emergency diesel generator. This submittal corrects inconsistencies and supersedes in entirety, an amendment request dated October 30, 1992, on the same subject.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1) The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated because the requested

revisions do not affect the FSAR safety analysis involving these systems.

AC Power Systems

The revision to the applicability of TS Section 3/4.8.A, "AC Power Systems" only clarifies the wording. The systems are still required to be OPERABLE under the same conditions. Therevisions to the LCO statements are also clarifications of the current specifications and the normal responses of plant operations personnel. The revision to the shutdown requirement is consistent with STS and other sections in DAEC TS. Separating the start and loading portions of the EDG connected to the bus following a loss of the other EDG decreases the probability of the EDG being subject to grid transients or attempting to pick up non-safety related loads during loss of offsite power. No changes are proposed to the systems or operation of the DAEC. The AC electrical power systems will still be available for operation of normal and safety-related systems and components under the same conditions so that these changes will not increase the probability or consequences of an accident previously evaluated.

DC Power Systems

The changes to TS Section 3/4.8.B, "DC Power Systems" are administrative in nature: the applicability statement is revised consistent with 3/4.8.A; a shutdown requirement consistent with STS and other DAEC TS is specified; a reference to 3.7.D is added for the case when the 250 Volt DC System is inoperable; and references to 3.1 and 3.2 are added for the case when a +/- 24 Volt DC System is inoperable. These changes do not alter the system or its OPERABILITY. The DC power systems will still function when required to support plant operation. These changes will not significantly increase the probability or consequences of an accident previously evaluated.

Onsite Power Distribution Systems

The proposed new TS Section 3/4.8.C, "Onsite Power Distribution Systems" consolidates the OPERABILITY requirements and Surveillance Requirements for these systems into one section. This change also includes LCOs for the various AC buses consistent with the equipment powered by the respective buses. These changes result in an enhancement to the specification by clearly stating the system OPERABILITY, Surveillance and LCO requirements in one place. This change will not significantly increase the probability or consequences of an accident previously evaluated because no equipment or operational changes are proposed.

Auxiliary Electrical Equipment - CORE ALTERATIONS

No changes are proposed to this section except to renumber it consistent with the other proposed changes.

Emergency Service Water System

Minor editorial changes are proposed for this section as well as revising the conditional surveillance requirement. The proposed new requirement to "verify" instead of "demonstrate" that one pump or loop of Emergency Service Water (ESW) is still OPERABLE when the other pump or loop becomes inoperable will not degrade the reliability of ESW to function as required.

The assurance that the OPERABLE pump or loop will function as required is provided by the ASME Section XI IST Program.

The probability of human error will decrease with reduced testing. Human error such as misalignment of valves after the system is returned to its normal configuration following testing and the distraction of operator attention from monitoring and directing plant operation is less likely to occur if this testing is eliminated. Additionally, reducing the scope and frequency of surveillance testing will decrease the probability of equipment failure (due to excessive testing) which could require plant shutdown. Therefore, this change will not increase the probability of occurrence or consequences of an accident previously evaluated.

The revisions to the Bases are administrative in that they only reflect the changes to the individual specifications described previously in this section. All changes are consistent with the applicable specifications.

(2) The proposed amendment will not increase the possibility of a new or different kind of accident from any accident previously evaluated for the following reasons:

As described above in response to question #1, none of the proposed changes alters the design of the plant or equipment or the plant's transient response. The changes to the Limiting Conditions for Operation applicable to TS Section 3.8 are consistent with STS and better ensure that equipment assumed to be OPERABLE in our accident analysis will be OPERABLE upon demand. The addition of Limiting Condition for Operation will better ensure that the assumptions in our accident analysis remain valid.

The changes to the Surveillance Requirements are consistent with the STS. Those systems required to mitigate accidents evaluated in the UFSAR will still be OPERABLE and available.

The reduction in conditional surveillance testing of certain systems and equipment will reduce the probability of equipment failure as a result of excessive testing or due to human error.

(3) The proposed amendment will not involve a significant reduction in a margin of safety for the following reasons:

The revisions to the Limiting Conditions for Operation in Section 3.8 of the TS will not invalidate the original licensing basis assumptions and will not invalidate any assumptions or input parameters for any DAEC event analysis. These changes provide more specific guidance only and are in accordance with the STS.

Extending the time period within which the DAEC must achieve COLD SHUTDOWN conditions will permit increased operator attention and minimal distractions for operators during shutdown, thus minimizing the risk of unexpected operational transients.

Additional surveillance testing for certain systems will provide additional assurance that these systems will be available when needed.

Elimination of unnecessary or conditional surveillance testing will not reduce the minimum necessary equipment

OPERABILITY requirements or equipment reliability. Elimination of the redundant testing will reduce equipment failure due to excessive testing or human error.

In summary, the proposed administrative changes do not change the probability or consequences of an accident previously evaluated, do not create the possibility of a new or different kind of accident and do not involve a reduction in the margin of safety.

Therefore, the proposed license amendment is judged to involve no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room
location: Cedar Rapids Public Library,
500 First Street, S.E., Cedar Rapids,
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Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: John N. Hannon

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: June 4, 1993

Description of amendment request:
The proposed amendment would revise the Technical Specifications (TS) by modifying the requirements of the TS Section 3.6, "Primary Systems Boundary" and adding definitions into Section 1.0, "Definitions." The proposed changes provide additional definitions and improve clarity and consistency of LCOs and SRs. Most of the changes are consistent with Standard TS (NUREG-1202) while other changes are editorial or administrative in nature. Guidance provided by Generic Letters (GL) 90-09, "Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Actions," and GL 91-01, "Removal of the Schedule for the Withdrawal of Reactor Vessel Material Specimens from Technical Specifications," was used. This submittal corrects inconsistencies and supersedes in entirety, an amendment request dated December 31, 1992, on the same subject.

Basis for proposed no significant hazards consideration determination:
As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1) The proposed changes do not involve a significant increase in the probability or

consequences of an accident previously evaluated.

The proposed changes discussed in this section are provided to enhance the overall quality and safety significance of the existing DAEC TS. The proposed TS do not change any accident analysis, plant safety analysis, calculations, degrade existing plant programs, modify any functions of safety related systems, or accident mitigation functions DAEC has previously been credited with. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed changes to the Bases Section 3.6 and 4.6 reflect the above changes and include various editorial corrections. These changes have no effect on the consequences of a previously evaluated accident.

2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not alter any plant parameters, revise any safety limit setpoint, or provide any new release pathways. In addition, the proposed changes do not modify the operation or function of any safety related equipment, nor do they introduce any new modes of operation, failure modes, or physical changes to the plant. The proposed changes do not change any plant parameters or transient responses assumed in the Design Bases of the plant and therefore, do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the Bases Section 3.6 and 4.6 reflect the above changes and include various editorial corrections. Therefore, the proposed changes and corrections do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3) The proposed changes do not involve a significant reduction in the margin of safety.

The proposed changes do not require any modifications to existing plant systems or equipment, Emergency Operating Procedures, safety limit settings, or parameters utilized in the licensing bases for the safety analysis. These proposed changes are being made to enhance TS Section 3.6 by clarifying and making LCOs and SRs consistent throughout the section. In addition, several LCOs and SRs have been added, providing additional information that did not exist in the current TS. As discussed above, the proposed changes do not change any safety analysis or any accident mitigation actions for which DAEC has previously taken credit. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The proposed changes to the Bases Section 3.6 and 4.6 reflect the above changes and include various editorial corrections. These changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

amendment request involves no significant hazards consideration.

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NRC Project Director: John N. Hannon

Maine Yankee Atomic Power Company,
Docket No. 50-309, Maine Yankee
Atomic Power Station, Lincoln County,
Maine

Date of amendment request: May 12,
1993

Description of amendment request:
The proposed amendment would delete the surveillance requirements for environmental monitors from the Technical Specifications (TS). A previous amendment relocated the surveillance requirements for the environmental monitors to the offsite dose calculation manual (ODCM), but through an administrative error, the surveillance requirements were not deleted from TS Table 4.1-3, Minimum Frequencies for Checks, Calibrations and Testing of Miscellaneous Instrumentation and Controls.

Basis for proposed no significant hazards consideration determination:
As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Neither accident assumptions nor analyses of the Maine Yankee Final Safety Analysis Report are affected by the proposed change. This is an administrative change to the TS. A previous amendment (T3Amendment No. 125, dated December 4, 1991), relocated the radiological environmental monitoring program (REMP) to the ODCM. The surveillance requirements for the air samplers were inadvertently left in the TS when the REMP was relocated to the ODCM. Requirements for continuous sampling--and at least weekly analysis--of airborne radioiodine and particulates, are found in Table 2.3 (page 53) of the licensee's ODCM.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Neither accident assumptions nor analyses of the Maine Yankee Final

Safety Analysis Report are affected by the proposed change. The proposed change is an administrative change to the TS. The proposed change does not involve a test or experiment, or a modification to a system, and does not affect any plant equipment or operating procedures.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change is administrative in nature, and does not affect any operating practice or operating limit. The proposed change affects no plant equipment or systems.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room
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NRC Project Director: Walter R. Butler

Maine Yankee Atomic Power Company,
Docket No. 50-309, Maine Yankee
Atomic Power Station, Lincoln County,
Maine

Date of amendment request: June 7,
1993

Description of amendment request:
The proposed amendment would modify Technical Specification (TS) 4.6.A, Safety Injection and Containment Spray Systems, to 1) require quarterly, vice monthly, testing of automatic core flooding and containment spray valves, 2) require that containment isolation valves not tested quarterly during reactor operation be tested during the next refueling outage, and 3) require an air flow test of all containment spray nozzles every 10 years, vice every 5 years. The proposed amendment also would modify TS 4.6.B, Emergency Feedwater Pumps, to require quarterly, vice monthly, testing of emergency and auxiliary feedwater pumps. Finally, minor editorial changes are made throughout TS 4.6.A and B to clarify existing requirements.

Basis for proposed no significant hazards consideration determination:
As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change revises the surveillance testing frequency for the subject valves, spray headers and feedwater pumps. The overall reliability of these motor operated valves is established and maintained through the licensee's adherence to NRC Generic Letter 89-10, Safety Related Motor-Operated Valve (MOV) Testing and Surveillance, and its supplements, as well as the In-Service Program required by 10 CFR 50.55a and Section XI of the ASME Boiler and Pressure Vessel Code. The revised surveillance frequency for feedwater pumps and containment spray nozzles is consistent with the requirements of NUREG-1432, Standard Technical Specifications, Combustion Engineering Plants, Sections 3.6.6 and 3.7.5, respectively.

2. The proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to the surveillance testing frequency of the subject valves, spray headers and feedwater pumps maintains operability verification, by performance of the existing surveillance tests for these components. No changes are made to any structures, systems or components.

3. The proposed amendment would not involve a significant reduction in a margin of safety.

The proposed change maintains operability verification for the subject valves, spray headers and feedwater pumps through performance of existing surveillance tests. Only the performance frequency of these surveillance tests is changed. The surveillance test frequency will be consistent with the applicable requirements of ASME Code Section XI and the Combustion Engineering Standard Technical Specifications.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room
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Attorney for licensee: Mary Ann Lynch, Esquire, Maine Yankee Atomic Power Company, 83 Edison Drive, Augusta, Maine 04336

NRC Project Director: Walter R. Butler

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: June 11, 1993

Description of amendment request: The proposed amendment revises the pressure/temperature (P/T) limits for the reactor vessel. Specifically, Figure 3.4-2, "Millstone Unit 2 Reactor Coolant System Pressure-Temperature Limitations for 12 Full Power Years," on page 3/4 4-19, is being revised to reflect the change in the curves and the title changed to "Millstone Unit 2 Reactor Coolant System Pressure-Temperature Limitations for 20 EFY [effective full power years]."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant hazards consideration because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed curves will not result in any plant operational or hardware modifications. They are adjusted to incorporate the results of the testing program on surveillance capsule W-104 which was removed from Millstone Unit No. 2 vessel after 9 EFY. The proposed change upgrades the P/T limits to account for the neutron irradiation damage and it incorporates the recently developed LTOP (low-temperature overpressure protection) criteria recommended by the ASME Code which specifies a maximum LTOP pressure of 110 percent of the Appendix G pressure. The previous criteria required that the LTOP pressure be maintained below the Appendix G allowable pressure. This change is found to be acceptable since it will continue to preclude nonductile failure of the RCS (reactor coolant system) while providing operator flexibility and minimizing the frequency of challenges to the LTOP system. The parameters identified in Regulatory Guide 1.99, Revision 2, have been addressed and have showed acceptable results. Therefore, the probability of occurrence or consequences of an accident previously analyzed have not been increased.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed curves will not result in any plant operational changes. The P/T limit curves were developed and implemented under a rigorous Quality Assurance Program to preclude nonductile failure of the RCS. In addition, the vessel neutron irradiation damage estimation has been validated through the Millstone Unit No. 2 surveillance program, including the evaluation of surveillance capsule W-104. This evaluation also demonstrated that the USE (upper-shelf

energy) for the limiting vessel materials will remain above the 10CFR50, Appendix G requirement of 50 ft-lbs, through the remainder of the vessel design life. The adherence to the P/T curves will ensure that no new or different kinds of accidents are created.

3. Involve a significant reduction in a margin of safety.

The margins of safety against nonductile failure of the RCS are ensured through the requirements of 10CFR50.61, which states that failure of the RCS under worst case pressurized thermal shock events is highly unlikely as long as the maximum RT_{NDT} [Reference Temperature Nil Ductility Transition] does not exceed 270°F anywhere in the RCS. The 270°F requirement is not expected to be exceeded during the current design license of the RCS.

The adherence of these curves will ensure that the plant is maintained in a safe condition. These curves have been developed so that the reactor coolant pressure boundary is maintained with sufficient margin to ensure that, when stressed under operating, maintenance, testing, and postulated accident conditions that the boundary behaves in a nonbrittle manner, and that the probability of rapidly propagating fracture is minimized. In addition, these analyses have been performed to ensure that the fracture toughness of the reactor vessel materials caused by neutron radiation is maintained within the required range.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

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location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

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NRC Project Director: John F. Stolz

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of amendments request: June 11, 1993, as revised June 30, 1993.

Description of amendments requests: The proposed amendments would revise the Technical Specifications to increase fuel enrichment from 4.25 weight percent to 5.0 weight percent. This includes a revision to the Technical Specifications to allow 5.0 weight percent U-235 fuel to be stored in the new fuel vault and the spent fuel pool and used in the core. In addition, Technical Specifications are being

revised to increase the minimum RWST boron concentration and incorporate references to natural uranium and ZIRLO clad material into the reactor core design description.

Basis for proposed no significant hazards consideration determination:
As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

[Fuel Enrichment Limit Changes]

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Fuel Storage

There is no increase in the probability of a fuel assembly drop accident in the new fuel storage area or the spent fuel pool since the mass of a fuel assembly does not increase when the fuel enrichment is increased.

There is not a significant increase in the consequences of a fuel assembly drop accident in the spent fuel pool since the fission product inventories in the fuel assemblies do not change significantly due to an increase in the fuel enrichment. Spent fuel gap activities, which are a function of fuel assembly burnup, are not directly affected by an increase in fuel assembly enrichment. The spent fuel gap activities are a function of fuel burnup, which will be increased by the use of higher enriched fuel. However, the increase in fuel burnup anticipated with the proposed increase in fuel enrichment is not expected to significantly effect the fuel gap activity. Additionally, fuel burnup is not expected to increase beyond the value currently assumed in the accident analysis until late in 1996. The possible offsite dose consequences of extending fuel burnup during subsequent cycles will be evaluated to ensure compliance with 10 CFR Part 100 requirements prior to the startup of the first cycle where the maximum fuel burnup currently assumed in the accident analysis is expected to be exceeded.

There is no increase in the probability or consequences of misplacing fuel assemblies in the spent fuel pool or new fuel storage racks as a result of an increase in fuel enrichment. The probability of misplacing a fuel assembly in the spent fuel pool or new fuel vault is not increased because fuel assembly placement will be controlled pursuant to the current approved fuel handling procedures and the requirements of the proposed Technical Specifications [TS]. Additionally, there is no increase in the probability of misplacing fuel assemblies in the new fuel storage racks because the racks will be modified to prevent the insertion of fuel assemblies in the central 14 cell locations assumed to be open in the criticality analysis.

There is no increase in the consequences of misplacing fuel assemblies in the spent fuel pool because criticality analyses demonstrate that the pool will remain subcritical assuming misplacement does occur if the pool contains an adequate boron concentration. The proposed [TS] will ensure that the adequate boron concentration is maintained when required.

There is no increase in the consequences of displacing fuel assemblies in the new fuel storage racks because for any such event, the absence of a moderator in the new fuel storage racks can be assumed as a realistic initial condition since assuming its presence would be a second unlikely event. Since the normal, dry new fuel rack reactivity is less than 0.62 (Fig. 5, Exhibit D), there is sufficient reactivity margin to the 0.95 limit to cover any possible misplacement.

There is no increase in the probability of introducing optimum moderation conditions in the new fuel storage vault as a result of an increase in fuel enrichment. The increase in fuel enrichment will have no effect on the possible introduction of a moderating material into the new fuel vault.

There is no increase in the consequences of introducing optimum moderation conditions in the new fuel storage vault as a result of an increase in fuel enrichment. The new fuel vault has been analyzed under a range of moderation conditions from fully flooded to optimum moderation at the increased fuel enrichment. These analyses demonstrate that the new fuel storage racks remain subcritical under these moderation conditions.

Reactor Core

Operation of Prairie Island Units 1 and 2 with 5.0 weight percent U-235 fuel in the reactor core does not involve a significant increase in the probability or consequences of an accident previously evaluated for the following reasons:

1. The use of 5.0 weight percent U-235 fuel in the reactor core will be evaluated as part of cycle specific reload analyses using NRC approved methodology. These cycle specific analyses will confirm that reactor operation with the higher enrichment reload fuel will meet all applicable requirements and acceptable criteria.

2. Neither actuation of safety systems nor accident mitigating capabilities will be adversely affected by operation of the Prairie Island reactors with 5.0 weight percent U-235 fuel.

3. The proposed enrichment increase does not pose a challenge to installed safety systems. Therefore, no new performance requirements are being imposed on any system or component such that any design [criteria] will be exceeded.

Conclusions

Based on the conclusions of the above analysis, the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

Fuel Storage

Spent fuel handling accidents are not new or different types of accidents, in that they are already analyzed in the Updated Safety Analysis Report [USAR]. Criticality accidents in the new fuel storage vault or the spent fuel pool are not new or different types of accidents in that they are already analyzed in the [USAR] for fuel enrichments up to 4.25 weight percent U-235. Additional criticality analyses (Exhibit D) have been performed for

fuel enrichments up to 5.0 weight percent U-235.

As described above, the storage of higher enrichment fuel in the new fuel racks will require the modification of 14 central cells of the new fuel storage racks to prevent insertion of new fuel assemblies. The modifications and their installation will be minor in nature and as such will not create the possibility of a new or different kind of accident.

The administrative controls which will be implemented to control the storage of higher enrichment fuel will only affect where spent fuel assemblies can be stored and the required spent fuel pool boron concentration. Limiting where fuel assemblies can be stored in the spent fuel pool will have little effect on fuel handling operations and the boron concentration required for the storage of higher enriched fuel is well below the boron concentration normally maintained in the spent fuel pool. Therefore, the implementation of these administrative controls will not create the possibility of a new or different kind of accident.

The Prairie Island spent fuel racks utilize boraflex sheets between the storage cells to assure subcriticality of the racks. Even though the boraflex sheets in the spent fuel racks were not adhesively constrained during construction, which reduces the likelihood of gaps forming, concerns related to the possibility of gaps having formed in the boraflex sheets due to radiation induced shrinkage, were addressed in the criticality analysis by assuming four inch axial gaps at the axial center of the active fuel in all the boraflex panels in the spent fuel pool. This four inch gap is considered conservative based on neutron radioassay measurements of the boraflex poison material. The centerline positioning of the gap is also considered conservative because it resulted in the highest calculated K_{eff} .

Fuel assembly decay heat production is a function of core power level, and since the core power level remains unchanged, the decay heat load on the spent fuel pool cooling system will not be significantly impacted by the proposed enrichment limits.

Reactor Core

Operation of the Prairie Island reactors with 5.0 weight percent U-235 fuel will not create any initiators for accidents, including any accidents that may be different from those already evaluated in the [USAR].

Conclusions

As discussed above, the proposed changes do not result in any significant change in the configuration of the plant, equipment design or equipment use nor do they require any change in the accident analysis methodology. Therefore, no different type of accident is created. No safety analyses are affected. The accident analyses presented in the [USAR] remain bounding.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

Fuel Storage

The spent fuel pool storage configuration required by proposed specification 3.8.E will provide the administrative controls necessary to assure that fuel assemblies with the potential to form a critical array in the spent

fuel pool are segregated such that K_{eff} will remain less than 0.95. The spent fuel pool boron required by proposed Specification 3.8.E will provide an additional safety margin to ensure criticality will not occur even if fuel assemblies were not stored in the required configuration.

The criticality analysis showed that K_{eff} for the existing new fuel rack configuration would remain less than 0.95 with full density moderation.

The modification to prevent storage of new fuel assemblies in central 14 cells of the new fuel storage rack will assure that K_{eff} will remain less than 0.98 when the new fuel racks are under optimum moderation conditions.

Therefore, since the calculated values of K_{eff} have been shown to be below K_{eff} .

Fuel assembly decay heat production is a function of core power level, and since the core power level remains unchanged, the decay heat load on the spent fuel pool cooling system will not be significantly impacted by the proposed enrichment limits.

Reactor Core

Operation of the Prairie Island reactors with 5.0 weight percent U-235 fuel will not create any initiators for accidents, including any accidents that may be different from those already evaluated in the [USAR].

Conclusions

As discussed above, the proposed changes do not result in any significant change in the configuration of the plant, equipment design or equipment use nor do they require any change in the accident analysis methodology. Therefore, no different type of accident is created. No safety analyses are affected. The accident analyses presented in the [USAR] remain bounding.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

Fuel Storage

The spent fuel pool storage configuration required by proposed specification 3.8.E will provide the administrative controls necessary to assure that fuel assemblies with the potential to form a critical array in the spent fuel pool are segregated such that K_{eff} will remain less than 0.95. The spent fuel pool boron required by proposed Specification 3.8.E will provide an additional safety margin to ensure criticality will not occur even if fuel assemblies were not stored in the required configuration.

The criticality analysis showed that K_{eff} for the existing new fuel rack configuration would remain less than 0.95 with full density moderation.

The modification to prevent storage of new fuel assemblies in central 14 cells of the new fuel storage rack will assure that K_{eff} will remain less than 0.98 when the new fuel racks are under optimum moderation conditions.

Therefore, since the calculated values of K_{eff} have been shown to be below the regulatory limits and because they reflect a substantial sub-critical configuration for both the fuel storage areas under adverse conditions, the proposed changes will not result in a significant reduction in the plant's margin of safety.

Reactor Core

Operation of the Prairie Island reactors with 5.0 weight percent U-235 fuel will not involve a significant reduction in a margin of safety because increasing the fuel enrichment in the reactor core does not change the conclusions of the accident analysis or safety limits of the plant. Additionally, the use of higher enrichment fuel will not adversely affect the operation of the fuel in the reactor core and does not decrease the margin of safety as described in the bases to any [TS].

Conclusions

Based on the conclusions of the above analysis, the proposed changes will not involve a significant reduction in the margin of safety.

Based on the evaluation described above, and pursuant to 10 CFR Part 50, Section 50.91, Northern States Power Company has determined that operation of the Prairie Island Nuclear Generating Plant in accordance with the proposed license amendment request does not involve any significant hazards considerations as defined by NRC regulations in 10 CFR Part 50, Section 50.92.

[Refueling Water Storage Tank Boron Concentration Limit Changes]

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

An increase in the required minimum RWST boron concentration has no effect on the probability of any accident previously evaluated.

The increase in the required minimum RWST boron concentration will ensure that the reactor will remain subcritical following a LOCA for reload cores utilizing fuel enriched to 5.0 weight percent U-235. Therefore, the proposed change will ensure [that] there is no increase in the consequences of a LOCA when fuel enriched up [to] 5.0 weight percent U-235 is utilized in the core.

Therefore, based on the conclusions of the above analysis, the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

Increasing the minimum RWST boron concentration to 2500 ppm will have no significant impact on plant operations since the actual RWST boron concentration is normally above that concentration and because no change is required in the way RWST boron concentration is controlled and maintained.

Because the proposed changes do not result in any significant change in the configuration of the plant, equipment design or equipment use nor do they require any change in the accident analysis methodology, no different type of accident is created. No safety analyses are affected. The accident analyses presented in the [USAR] remain bounding.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

Increasing the minimum RWST boron concentration required by Technical

Specification 3.3.A.1.a to 2500 ppm will provide adequate negative reactivity to ensure that the reactor will remain subcritical following a LOCA for reload cores utilizing fuel enriched to 5.0 weight percent U-235. The evaluation of post-LOCA long term shutdown margin performed as a part of each Reload Safety Evaluation will provide continued assurance that the 2500 ppm RWST boron concentration limit is adequate to maintain post-LOCA shutdown margin.

Therefore, since the increased RWST minimum boron concentration and cycle specific Reload Safety Evaluations will ensure that the reactor will remain subcritical following a LOCA, the proposed changes will not result in a significant reduction in the plant's margin of safety.

Based on the evaluation described above, and pursuant to 10 CFR Part 50, Section 50.91, Northern States Power Company has determined that operation of the Prairie Island Nuclear Generating Plant in accordance with the proposed license amendment request does not involve any significant hazards considerations as defined by NRC regulations in 10 CFR Part 50, Section 50.92.

[Reactor Core Design Description Changes]

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The incorporation of natural uranium and ZIRLO clad into the Technical Specification reactor core design description and use of those materials in the reactor core will not [affect] the probability of any accident previously evaluated.

The incorporation of natural uranium into the reactor core design description in Section 5.3.A.1 of the Prairie Island [TS] is strictly a clarification. Natural uranium has been previously used in the Prairie Island reactor cores in the form of axial blankets and replacement fuel rods. Natural uranium will respond to accident conditions in a manner similar to slightly enriched uranium. Additionally, fuel rods containing natural uranium instead of slightly enriched uranium will have lower gap activities which would slightly reduce the consequences of an accident. Therefore, the use of natural uranium in the reactor core has no significant effect on the consequences of an accident.

The use of ZIRLO clad material will not increase the consequences of an accident. ZIRLO clad has improved mechanical properties such as a lower corrosion rate and reduced radiation induced growth which may improve the fuel clad response to accident conditions. The NRC revised the acceptance criteria in 10 CFR Part 50, Sections 50.44 and 50.46 (Federal Register dated August 31, 1992), relating to evaluations of emergency core cooling systems and combustible gas control applicable to zircaloy clad fuel to include ZIRLO clad fuel. This revision to the federal regulations made ZIRLO an acceptable zirconium based cladding material along with zircaloy.

Therefore, based on the conclusions of the above analysis, the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

Because the proposed changes do not result in any significant change in the configuration of the plant, equipment design or equipment use nor do they require any change in the accident analysis methodology, no different type of accident is created. No safety analyses are affected. The accident analyses presented in the [USAR] remain bounding.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The incorporation of natural uranium into the reactor core design description of the Prairie Island [TS] is strictly a clarification. Natural uranium has been previously used in the Prairie Island reactor cores in the form of axial blankets and replacement fuel rods. Any use of natural uranium in the reactor cores will be evaluated with NRC approved methodologies prior to use. The use of natural uranium has no effect on the safe operation of the reactor. The incorporation of natural uranium into the reactor core design description is consistent with the guidance provided in Section 4.2.1 of the Westinghouse Standard Technical Specifications, NUREG-1431.

ZIRLO clad has a lower corrosion rate and reduced radiation induced growth which will enhance the safe operation of the Prairie Island reactors. Any use of ZIRLO clad fuel in the reactor cores will be evaluated with NRC approved methodologies prior to use. The neutronic properties of ZIRLO are nearly identical to those of Zircaloy and therefore the use of ZIRLO is not expected to have any significant effect on the results of the core reload analyses. The NRC revised the acceptance criteria in 10 CFR Part 50, Sections 50.44 and 50.46 (Federal Register dated August 31, 1992), relating to evaluations of emergency core cooling systems and combustible gas control applicable to zircaloy clad fuel to include ZIRLO clad fuel. This revision to the federal regulations [made] ZIRLO an acceptable zirconium based cladding material along with zircaloy.

Therefore, the proposed changes will not result in a significant reduction in the plant's margin of safety.

Based on the evaluation described above, and pursuant to 10 CFR Part 50, Section 50.91, Northern States Power Company has determined that operation of the Prairie Island Nuclear Generating Plant in accordance with the proposed license amendment request does not involve any significant hazards considerations as defined by NRC regulations in 10 CFR Part 50, Section 50.92.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room
location: Minneapolis Public Library,

Technology and Science Department,
300 Nicollet Mall, Minneapolis,
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20037 NRC Acting Project Director: W.
M. Dean

Pacific Gas and Electric Company,
Docket Nos. 50-275 and 50-323, **Diablo**
Canyon Nuclear Power Plant, Unit Nos.
1 and 2, San Luis Obispo County,
California

Date of amendment requests: May 7,
1993 (Reference LAR 93-01)
T3

Description of amendment requests:
The proposed amendments would
revise the combined Technical
Specifications (TS) for the Diablo
Canyon Power Plant Unit Nos. 1 and 2
to amend TS 3/4.3.3.5, "Remote
Shutdown Instrumentation." The
proposed changes add remote shutdown
control functions, increase the allowed
outage time (AOT) for an inoperable
remote shutdown function
(instrumentation and control) from 7
days to 30 days, add an Action
Statement that clarifies that separate
entry is permitted for each function
listed in Table 3.3-9, and revise the
associated TS Bases.

**Basis for proposed no significant
hazards consideration determination:**
As required by 10 CFR 50.91(a), the
licensee has provided its analysis of the
issue of no significant hazards
consideration, which is presented
below:

a. Does the change involve a significant
increase in the probability or consequences
of an accident previously evaluated?

The proposed changes to TS 3.3.3.5 do not
alter the plant configuration or operation.
The inclusion of remote shutdown control
functions constitute additional restrictions
over the remote shutdown system. Since the
remote shutdown instrumentation and
controls are not part of the primary success
path to mitigate a design basis accident or
transient [that] either assumes the failure or
[presents] challenges to the integrity of a
fission product barrier, and since the
probability of an event that would require
evacuation of the control room is low, the 30-
day AOT [allowed outage time] is

b. Does the change create the possibility of
a new or different kind of accident from any
accident previously evaluated?

The proposed changes to TS 3.3.3.5 do not
require physical alteration to any plant
system or change the method by which any
safety-related system performs its function.
Therefore, the proposed changes do not
create the possibility of a new or different
kind of accident from any accident
previously evaluated.

c. Does the change involve a significant
reduction in a margin of safety?

The proposed changes to TS 3.3.3.5 will
not change any assumptions, initial
conditions, or results of any accident
analysis. Consequently, the changes do not
involve a significant reduction in a margin of
safety.

The NRC staff has reviewed the
licensee's analysis and, based on this
review, it appears that the three
standards of 50.92(c) are satisfied.
Therefore, the NRC staff proposes to
determine that the amendment requests
involve no significant hazards
consideration.

Local Public Document Room
location: California Polytechnic State
University, Robert E. Kennedy Library,
Government Documents and Maps
Department, San Luis Obispo, California
93407

Attorney for licensee: Christopher J.
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NRC Project Director: Theodore R.
Quay

Pacific Gas and Electric Company,
Docket Nos. 50-275 and 50-323, **Diablo**
Canyon Nuclear Power Plant, Unit Nos.
1 and 2, San Luis Obispo County,
California

Date of amendment requests: May 14,
1993 (Reference LAR 93-02)
T3

Description of amendment requests:
The proposed amendment would revise
the combined Technical Specifications
(TS) for the Diablo Canyon Power Plant
Unit Nos. 1 and 2 to revise Technical
Specification (TS) 3.3.1, "Reactor Trip
System Instrumentation," regarding the
Reactor Protection System (RPS). The
proposed TS corrects a typographical
error in Table 3.3-1, Action 26, by
adding the words "the next," to clearly
state that a total of 12 hours is allowed
to perform maintenance.

**Basis for proposed no significant
hazards consideration determination:**
As required by 10 CFR 50.91(a), the
licensee has provided its analysis of the
issue of no significant hazards
consideration, which is presented
below:

a. Does the change involve a significant
increase in the probability or consequences
of an accident previously evaluated?

The TS revisions proposed in this LAR do
not change the operating methodology of
Diablo Canyon. The proposed administrative
change corrects the Action statement as
previously approved and is consistent with
NRC [Safety Evaluation Report] SER dated
April 30, 1990.

Therefore, the proposed changes do not
involve a significant increase in the
probability or consequences of an accident
previously evaluated.

b. Does the change create the possibility of
a new or different kind of accident from any
accident previously evaluated?

The proposed revisions to the Diablo Canyon TS are administrative in nature. Further, the proposed change would not result in any physical alteration to any plant system not previously approved, and there would not be a change in the method by which any safety-related system performs its function.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

[These administrative changes do not alter the basic regulatory requirements and do not affect any safety analyses.]

The proposed change corrects the Diablo Canyon Power Plant RPS [allowed outage times] AOT, this change is consistent with previous NRC review and approval in [License Amendments] LA 61 and 60.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room
Location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: Theodore R. Quay

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: April 1, 1993

Description of amendment request: The licensee requested changes to the Peach Bottom Atomic Power Station, Units 2 and 3 Technical Specifications (TS) that will allow operation in an expanded operating domain. The existing operating domain would be modified to include the extended operating region on the reactor power-to-flow map bounded by the rod line that passes through the 100% power/75% core flow point (at approximately the 121% rod line). Operation in the expanded domain will require changes to the Average Power Range Monitor

(APRM) and Rod Block Monitor (RBM) systems and associated TS. Operation in the expanded domain is based on the Maximum Extended Load Line Limit Analyses (MELLLA) performed by the General Electric Company (GE) in a Peach Bottom plant-specific report. The licensee has evaluated the proposed TS revisions as three separate changes. The first proposed change deletes the flow-biased APRM scram and rod block trip setpoint setdown requirements, deletes reference to the k_f flow adjustment factor, introduces power and flow dependent adjustments to the Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) and Minimum Critical Power Ratio (MCPR) limits, revises the documentation requirements of the Core Operating Limits Report (COLR) and deletes the definitions of the Fraction of Rated Thermal Power (FRP) and the Maximum Limiting Power Density (MFLPD). The second proposed change modifies the flow-biased APRM scram and rod block trip equations to accommodate an expanded operating domain. The third proposed change modifies the RBM trip setpoints.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Proposed Change 1: There will be no impact on the probability of any accident previously evaluated since the change applies a new methodology for assuring that the fuel thermal and mechanical design bases are satisfied and has no effect upon any accident initiating mechanism. The proposed change identifies that the adjustments to the MCPR and MAPLHGR limits, as specified in the Core Operating Limits Report, will be made as a function of core flow and power. These adjustments are determined using NRC approved methods as required by Technical Specification 6.9.1.e.2. Operation within the operating limits will ensure that the consequences of any accident which could occur would be within the acceptable limits. Thus, there is no significant change in the consequences of any accident previously evaluated.

Proposed Change 2: The proposed change expands the power and flow operating domain by relaxing the restrictions imposed by the formulation of the flow-biased APRM rod block and scram trip setpoints. The probability of any accident is not increased by operating in the expanded operating domain because formulation of the flow-biased APRM rod block trip equation (including a new maximum value for the APRM rod block) has been established to maintain margin between the rod block

setpoint and the scram setpoint.

Additionally, this change will have no effect on any accident initiating mechanisms. The consequences of anticipated operational occurrences have been evaluated using NRC approved methods and the proposed setpoint formulations have been selected such that the consequences of any accident remain bounded by NRC approved criteria.

Proposed Change 3: The RBM system is not involved in the initiation of any accident and does not increase the probability of the occurrence of any accident. The RBM system only serves to mitigate the consequences of one event; the rod withdrawal error (RWE) anticipated operational occurrence. Analyses of the RWE were performed using NRC approved methods for the modified RBM configuration and setpoints. The results demonstrate that the consequences of the RWE event are less severe with the modified RBM system than with the current configuration. Therefore, the proposed change does not involve an increase in the consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

Proposed Change 1: The proposed change eliminates the requirement for setdown of the flow-biased APRM scram and rod block trip setpoints under specified conditions and substitutes adjustments to the MCPR and MAPLHGR operating limits. Because the MCPR and MAPLHGR limits will continue to be met, no transient event will escalate into a new or different type of accident from any accident previously evaluated. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Proposed Change 2: Changing the formulation for the flow-biased APRM rod block and scram trip setpoints does not change their respective functions and manner of operation. The change does not introduce a sequence of events or introduce a new failure mode that would create a new or different type of accident. The APRM rod block trip setpoint will continue to block control rod withdrawal when core power significantly exceeds normal limits and approaches the scram level. The APRM scram trip setpoint will continue to initiate a scram if the increasing power/flow condition continues beyond the APRM rod block setpoint. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Proposed Change 3: The proposed change does not alter the function of any component or system other than the RBM system. The changes to the RBM system have been designed to enhance the reliability and accuracy of the RBM system without impacting the degree of isolation of the RBM system from other plant systems. The function of the RBM system does not change. The change does not involve a new sequence of events or the introduction of a new failure mode that could create a new or different kind of accident. Therefore, the proposed change does not create the possibility of a

new or different kind of accident from any accident previously evaluated.

3. The proposed change does not result in a significant reduction in a margin of safety.

Proposed Change 1: The changes in the operating limits will maintain the existing margin to safety limits. The new adjustments impose thermal limit restrictions such that the consequences of anticipated operational occurrences are no more severe than the most limiting conditions with the current Technical Specifications with the flow-biased APRM scram and rod block setpoint shutdown provisions. The flow and power adjustment factors were determined using NRC approved methods and satisfy the same NRC approved criteria met by analyses assuming shutdown of the flow-biased APRM scram and rod block setpoints. The impact of eliminating the shutdown requirements on the LOCA response has been evaluated at low flow conditions and all 10 CFR 50.46 and 10 CFR 50, Appendix K criteria have been met. Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

Proposed Change 2: The APRM rod block trip setpoint will continue to block control rod withdrawal when core power significantly exceeds normal limits and approaches the scram level. The APRM scram trip setpoint will continue to initiate a scram if the increasing power/flow condition continues beyond the APRM rod block setpoint. Operation in the new expanded operating domain has been analyzed by General Electric and sufficient margin to design limits exist. Therefore, the proposed change does not involve a reduction in the margin of safety.

Proposed Change 3: The proposed change revises the setpoints for the RBM system which is solely designed to mitigate the consequences of the RWE event. The RBM setpoint is being changed from a flow biased equation to 3 discrete power dependent setpoints. Analyses of the RWE event are used to derive the setpoints such that the safety limit for the minimum critical power ratio (MCPR) will not be challenged. By an appropriate selection of the setpoints, the RWE will not be the limiting event and will not determine the operating limit MCPR. In this respect, the RBM setpoints are dependent upon the operating limit MCPR values which depend on the cycle-specific conditions. For this reason, the proposed change also identifies that these setpoints are specified in the COLR. The COLR is prepared based on the results of analyses using NRC approved methods as required by Technical Specification requirements for the COLR. The operating limit MCPR maintains the margin of safety for this thermal limit. Thus, the proposed change does not involve a reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room
location: Government Publications

Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101
NRC Project Director: Charles L. Miller

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments:
May 25, 1993

Description of amendment request:
The licensee proposes to make several administrative changes to the Technical Specifications. The first change (licensee technical specification change request (TSCR) 92-06) removes reference to the service platform hoist from TS 3.10.A.4, TS Bases Section 3.10 and TS 4.10.A.3. The service platform hoist has been removed since 1985 and the proposed changes update the TS to reflect the removal of the service platform hoist. The second change (licensee TSCR 93-03) corrects a typographical error to TS Table 3.2.B. The revision will reflect the correct setpoint tolerance (plus or minus 5%) for the Emergency Transformer Degraded Voltage Inverse Time relays. The setpoint tolerance was incorrectly listed as plus-5% when the setpoint was originally incorporated into the TS by amendments 97 (Unit 2) and 99 (Unit 3). The third change (licensee TSCR 93-04) clarifies the bases for the Turbine Control Valve Fast Closure and Turbine Stop Valve Closure scram signal bypass setpoints. The updated bases change is made to Note 4 to TS Table 3.1.1 and to TS Bases Section 3.1.

Basis for proposed no significant hazards consideration determination:
As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Licensee proposes that this application does not involve significant hazards considerations for the following reasons:

i) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

TSCR 92-06 proposes to delete references to the Service Platform Hoist due to the fact that it has been physically removed from

service. Deletion of these references will enhance safety by providing clarity when interpreting the Technical Specifications.

TSCR 93-03 proposes to correct a typographical error regarding the setpoint tolerance of the Emergency Transformer Degraded Voltage Relay. Correction of this typographical error will enhance safety by eliminating confusion in interpreting the Technical Specifications.

TSCR 93-04 proposes to change the basis, based on GE SIL 423, for which the bypass setpoint for the Turbine Stop Valve Closure and the Control Valve Fast Closure scram signals are established.

Because the above proposed changes are administrative in nature, they do not affect the initial conditions or precursors assumed in the Updated Final Safety Analysis Report Section 14. These changes do not decrease the effectiveness of equipment relied upon to mitigate the previously evaluated accidents.

Therefore, there is no increase in the probability or consequences of an accident previously evaluated.

ii) The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not make any physical changes to the plant or changes to operating procedures. Therefore, implementation of the proposed changes will not affect the design function or configuration of any component or introduce any new operating scenarios or failure modes or accident initiation.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

iii) The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes are administrative in nature and are intended to provide clarification or eliminate confusion when interpreting the Technical Specifications. The proposed changes do not adversely affect the assumptions or sequences of events used in any accident analysis.

Therefore, the proposed changes do not involve a reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room
location: Government Publications
Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: June 28, 1993

Description of amendment request: The proposed change would add a footnote to Technical Specification (TS) 4.7.A.2.f to indicate that a Type A, B, or C test is not required following the replacement of piping and welds in the Core Spray System minimum flow lines during the 1993 maintenance outage. Replacement of sections of these lines is necessary because wall thinning was discovered during the 1992 refueling outage. The licensee has proposed to implement an alternate inspection program in lieu of a Type A, B, or C test currently required by the TSs and 10 CFR Part 50, Appendix J, Section IV.A. The licensee submitted a request for an exemption from this requirement of 10 CFR Part 50, Appendix J, concurrent with the request for amendment of the TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of the FitzPatrick plant in accordance with the proposed amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since the proposed changes would not:

1. involve a significant increase in the probability of an accident or consequence previously evaluated. The proposed change would allow for the replacement of piping and welds which constitute the Core Spray System minimum flow lines (32-W23-152-7A, B), without performing a leakage test as required by Technical Specifications. This replacement will improve the structural capability of the Core Spray System by use of improved materials. [Performance of] 100% radiography, system leakage test, and surface examinations on the new welds forming a portion of the primary containment boundary will assure structural integrity of the new welds and the lack of any flaws through which a leakage path could develop. Since the structural integrity of the containment pressure boundary through these new welds are assured, the probability of occurrence or consequences of any accident previously evaluated is not significantly increased.

2. create the possibility of a new or different kind of accident from those previously evaluated. Not performing an ILRT [integrated leak rate test] during the Fall 1993 maintenance outage cannot initiate any type of accident. The replacement of piping and welds which constitute the Core Spray System minimum flow lines (32-W23-152-7A, B) improves the Core Spray System structural capability. Using the improved

material for this piping reduces the probability of cavitation induced pitting in the future. The planned compensatory measures provide assurance of the structural and leak integrity of the piping. Since the structural integrity of the containment pressure boundary through these welds are assured, no change is made to the possibility of a new kind of accident from those previously evaluated.

3. involve a significant reduction in the margin of safety. Performance of 100% radiography, surface examinations, and a system leakage test, in lieu of a pneumatic leak rate test on the new welds, is conservative. These examinations assure the structural integrity of the new welds and the lack of any flaws through which a leakage path could develop. In combination, these examinations ensure zero leakage through the new welds. The construction code (ANSI B-31.1-1967) allows for 100% radiograph as an alternate to leakage testing when such testing is not practicable. There is no reduction of any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra
Southern Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: March 4, 1993, as supplemented June 29, 1993

Description of amendments request: The requested amendment would (1) delete the references to diesel generator 2C from Technical Specifications (TS) 3/4.8.1.1 and 3/4.8.1.2; (2) revise the diesel generator test schedule based upon the Nuclear Management and Resources Council (NUMARC) guidance for determining the number of allowable failures and valid demands; (3) delete 600 volt load centers J and H as listed in TS 3/4.8.2; and (4) revise the requirements of TS 6.9.1.12 for the Annual Diesel Generator Reliability Report; and (5) revise TS 6.8.1 to include a reference to the document that provides the testing, maintenance, and procurement requirements applicable to the 2C diesel generator and to include a requirement to inform the NRC if the 2C diesel generator is out of service for more than 10 days.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed changes to the electrical system technical specifications will not involve a significant increase in the probability or consequences of an accident previously evaluated. The elimination of diesel generator 2C as an emergency power source will not impact the remaining four EDGs ability to supply all shutdown loads during the worst case design basis accident with LOSP [loss of offsite power]. The revised testing schedule will provide assurance that individual EDGs are maintained in a high degree of reliability and that the calculated unit reliability is within the limits required by the SBO rule.

(2) The proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated. No new failure mechanisms are being introduced which could create a new or different accident than those previously evaluated. All equipment required to complete a safe unit shutdown following a design basis event will continue to receive emergency electrical power should a total loss of offsite power occur.

(3) The proposed changes do not involve a significant reduction in a margin of safety. The emergency electrical power system's ability to cope with the worst case design event, considering a single failure, is unaffected by the proposed technical specification changes. The minor increase in electrical loading on the remaining train B EDGs, as a result of the designation of DG 2C as the SBO AAC, will not exceed the rated capacity of the EDGs. The assumptions used in the analyses of the design basis events will not be impacted by the proposed elimination of DG 2C. The revised test schedule is consistent with the SBO rule's goal of enhanced EDG reliability.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302

Attorney for licensee: James H. Miller, III, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: S. Singh Bajwa
Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: March 15, 1993, resubmitted April 21, 1993

Description of amendment request:

The proposed amendments to the Technical Specifications (TS) would permit use of the two new Main Control Room and Emergency Switchgear Room (ESGR) Air Conditioning System chillers to meet the Limiting Condition for Operation and establish an allowed time period to restore a chiller to operable status when two of the required three chillers become inoperable. An action statement is being added to allow one hour to restore one of two inoperable chillers to operable, when two of the three required chillers become inoperable, prior to shutting down both Surry units. Since the Air Handling Units (AHU) associated with the chiller system have been returned to 100% capacity, the associated fire watch is no longer necessary in the ESGRs, thus the Basis section of the TS is being revised to delete the required fire watch in the ESGRs. Defined words are being capitalized throughout TS Section 3.23 and system names are being capitalized and acronyms are being spelled out for consistency.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below. The proposed changes will not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

The Main Control Room and Emergency Switchgear Room Air Conditioning System is not involved in the initiation of any previously evaluated accidents. Therefore, the probability of such accidents is not affected. The requirement to have three chillers operable whenever either unit is above Cold Shutdown is being maintained. Any three operable chillers, powered from three of the four emergency buses with one of the chillers capable of being powered from the fourth emergency bus, will continue to provide equivalent capacity and redundancy to remove the heat load during normal and accident conditions. Providing one hour to restore a second chiller to operable status when there is only one operable chiller does not change air conditioning system or equipment operation. Therefore, the probability of occurrence and the consequence of an accident previously evaluated is not increased.

Elimination of the fire watch in the emergency switchgear rooms does not affect the probability or consequences of any previously evaluated accident. The firewatch was an interim measure pending completion of the AHU upgrade restoring air handling capacity to original design. The AHU modifications are complete and the interim firewatch is no longer necessary. Therefore, the fire watch has no impact on the probability of occurrence or consequences of an accident. The administrative changes do

not impact plant operation or system design. Thus, the consequences of an accident are not being affected by this change.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not introduce any new failure modes or accident precursors. Eliminating the specific chiller identification from the operability requirements does not create any new or different kind of accident scenarios. Operation of the Main Control Room and Emergency Switchgear Room Air Conditioning System does not change. Providing one hour to restore a second chiller to operable status when there is only one operable chiller does not change air conditioning system or equipment operation.

Elimination of the fire watch in the Emergency Switchgear Rooms does not create any new or different kind of accident scenario. The air handling capacity in the Main Control and Emergency Switchgear Rooms has been restored to original design capacity. Therefore, the interim firewatch is unnecessary for Appendix R considerations. The administrative changes do not impact plant operation or system design. Therefore, no new or different kind of accident is being created.

3. Involve a significant reduction in a margin of safety.

The revised Technical Specification maintains the required capacity and redundancy in the Main Control Room and Emergency Switchgear Room Air Conditioning System to ensure sufficient heat removal during normal and accident conditions. Providing one hour to restore a second chiller to operable status when there is only one operable chiller does not significantly reduce the margin of safety.

The air handling capacity in the Main Control Room and Emergency Switchgear Room has been restored to original design capacity. Therefore, the interim firewatch is unnecessary for Appendix R considerations. The administrative changes do not impact plant operation or system design. Therefore, the margin of safety as defined in any Technical Specification is not reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219

NRC Project Director: Herbert N. Berkow

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: February 23, 1993

Description of amendment request: This amendment would revise the Technical Specifications (TS) in Section 3.5, "Instrumentation System," Table 3.5-6, "Instrumentation Operating Conditions for Indication," and Table 4.4-1, "Minimum Frequencies for Checks, Calibrations and Test of Instrument Channels." The proposed amendment would add operability and surveillance requirements for the reactor vessel level indication and core exit thermocouple instrumentation installed at Kewaunee in 1987 as part of the instrumentation to detect inadequate core cooling. Similar additions are proposed for the wide range steam generator level instrumentation upgraded in 1992. Administrative changes are also being proposed dealing with format and typographical inconsistencies.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

The proposed changes would not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes are consistent with the guidance provided in NRC Generic Letter 83-37. Specifically, surveillance requirements, limiting conditions for operation, and required actions are provided for the instrumentation. These new specifications help to ensure instrument reliability and availability, and add restrictions not presently included in the TS. The other proposed changes are administrative in nature. Hence, the probability or consequences of an accident previously evaluated would not be increased.

The proposed changes would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes would not alter the plant configuration, operating set points or overall plant performance. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated would not be created.

The proposed changes would not involve a significant reduction in the

margin of safety. The proposed changes include enhancements to the specifications and additional controls and limitations. Hence, overall plant safety would be enhanced, and the margin of safety would not be reduced.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P. O. Box 1497, Madison, Wisconsin 53701-1497.

NRC Project Director: John N. Hannon.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: May 4, 1993

Description of amendment request: This proposed amendment would remove the Radiological Effluent Technical Specifications (RETS) from the Kewaunee Nuclear Power Plant (KNPP) Technical Specifications. This proposed amendment is in accordance with the Nuclear Regulatory Commission's (NRC) Generic Letter 89-01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications in the Administrative Controls Section of the Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual or the Process Control Program," dated January 31, 1989.

Generic Letter 89-01 summarizes the results of the NRC's study of the RETS as it relates to the Commission's Interim Policy Statement on Technical Specification Improvements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because relocating the Radiological Effluent Technical Specifications (RETS) to the Offsite Dose Calculation Manual (ODCM) or the Process Control Program

(PCP) is strictly an administrative change that does not reduce or modify any existing safety requirement or procedure.

The proposed change does not create the possibility of a new or different kind of accident from an accident previously evaluated because no new accident scenario is created and no previously evaluated accident scenario is changed by relocating procedural requirements from one controlled document to another.

The proposed change does not involve a significant reduction in a margin of safety because no modification of any plant structure, system, component, or operating procedure is associated with this administrative change, so all safety margins remain unchanged.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P. O. Box 1497, Madison, Wisconsin 53701-1497.

NRC Project Director: John N. Hannon.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: May 5, 1993

Description of amendment request: The proposed amendment would change the Kewaunee Nuclear Power Plant (KNPP) Technical Specifications to satisfy commitments made by the licensee regarding NRC Generic Letter 90-06. This letter deals with Generic Issue 70 and Generic Issue 94, which focus on power-operated relief valve and block valve reliability and additional low-temperature overpressure protection. The proposed amendment includes restrictions on the restart of an inactive reactor coolant pump, modifications to the limiting conditions for operation of the pressurizer power-operated relief valves (PORVs) and associated block valves, modifications to the limiting conditions for operation for reactor coolant temperature and pressure, and provisions to ensure that adequate low-temperature overpressure protection (LTOP) is available. This amendment request supersedes the amendment

request on the same subject that was submitted on May 9, 1991, and supplemented on June 26, 1991 and July 24, 1992. The previous amendment request was noticed on July 24, 1991 (56 FR 33962).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(a) Reactor coolant pump starting prohibitions

The proposed change was reviewed in accordance with the provisions of 10 CFR 50.92 to show no significant hazards exist. The proposed change will not:

1) involve a significant increase in the probability or consequences of an accident previously evaluated.

LTOP is required in pressurized water reactors to provide protection against brittle fracture of the reactor pressure vessel. The licensing basis of the KNPP LTOP system assumes that the maximum temperature difference between the secondary side heat sink and the reactor coolant system cold leg will be less than or equal to 100°F when a reactor coolant pump is started. This proposed TS provides an additional control to ensure that the licensing basis of the LTOP system is satisfied. Consequently, this proposed TS provides increased assurance that the KNPP Appendix G pressure-temperature limits (proposed Figure TS 3.1-4) will not be exceeded due to an energy input event. Therefore, this proposed change does not increase the probability or consequences of an accident previously evaluated.

2) create the possibility of a new or different type of accident from an accident previously evaluated.

A new or different kind of accident from those previously evaluated will not be created by this TS change. The proposed TS provides an additional restriction to assure that the design basis of the KNPP LTOP system is met. Therefore, the proposed TS change would not allow the KNPP to operate outside of its design basis.

3) involve a significant reduction in the margin of safety.

This proposed TS change will not reduce the margin of safety. Rather, the proposed change provides an additional administrative control to ensure plant operation remains within the design basis of the LTOP system. Consequently, the likelihood of the KNPP experiencing a pressure transient due to an energy input event that challenges the LTOP system and the Appendix G pressure/temperature limits is reduced.

(b) Modifications to the limiting conditions for operation of the pressurizer PORVs and associated block valves

The proposed change was reviewed in accordance with the provisions of 10 CFR 50.92 to show no significant hazards exist. The proposed change will not:

1) involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of an accident previously evaluated will not be increased by this TS

change. The accident of interest is a design-basis steam generator tube rupture (SGTR). The probability of a SGTR will not be increased as a result of providing an additional administrative control to ensure the availability of the pressurizer PORVs and block valves.

In addition, the consequences of an accident previously evaluated will not be increased by this TS change. The proposed change provides increased assurance that the pressurizer PORVs and block valves will be available to assist in the mitigation of a SGTR and thus limit the consequences of a SGTR.

2) create the possibility of a new or different kind of accident from an accident previously evaluated.

A new or different kind of accident from those previously evaluated will not be created by this TS change. The proposed TS is for the purpose of providing reasonable assurance that the pressurizer PORVs and block valves are available when called upon to perform a function. Ensuring the availability of the PORVs and block valves will not alter the plant configuration, or plant performance.

3) involve a significant reduction in the margin of safety.

The margin of safety will not be reduced by this change to the Technical Specifications. This TS change increases the assurance that the pressurizer PORVs and block valves will be available when called upon to perform a function. Therefore, plant safety is enhanced and the risk to the health and safety of the public is reduced.

(c) Modifications to the limiting conditions for operation for reactor coolant temperature and pressure.

The proposed change was reviewed in accordance with the provisions of 10 CFR 50.92 to show no significant hazards exist. The proposed change will not:

1) involve a significant increase in the probability or consequences of an accident previously evaluated.

The use of RG 1.99 Regulatory Position C.2 does not modify the reactor coolant system pressure boundary, nor make any physical changes to the facility design, material, construction standards, or setpoints. The probability of a LTOP event occurring is independent of the pressure temperature limits for the RCS pressure boundary. Therefore, the probability of a LTOP event occurring remains unchanged.

The use of predicted fluence values through the end of operating cycle 20 is appropriately considered within the calculations in accordance with standard industry methodology previously docketed under WCAP 13227. Revised flux values were used for Cycles 16, 17, and 18 based on actual core reload designs. All other flux values were taken from WCAP 12333.

The calculation of pressure temperature limits in accordance with approved regulatory methods provides assurance that reactor pressure vessel fracture toughness requirements are met and the integrity of the RCS pressure boundary is maintained.

The use of Regulatory Position C.2 and fluence values through EOC 20 meet previously established criteria for protection of the health and safety of the public. The

consequences of a LTOP transient therefore, remain unchanged.

2) create the possibility of a new or different type of accident from an accident previously evaluated.

The use of Regulatory Position C.2 and fluence through EOC 20 does not modify the reactor coolant system pressure boundary, nor make any physical changes to the LTOP setpoint or system design.

Therefore, no new failure mechanisms are created that could create the possibility of an accident of a new or different type.

3) involve a significant reduction in the margin of safety.

The appendix G pressure temperature limitations are calculated in accordance with regulatory requirements and calculational limitations specified in RG 1.99, Revision 2. RG 1.99 is an acceptable method for implementing the requirements of 10 CFR 50 Appendices G and H.

The revised calculations meet the NRC acceptance criteria for the LTOP setpoint and system design as described in NRC Safety Evaluation Report (SER) dated September 6, 1985, which concluded that "the spectrum of postulated pressure transients would be mitigated...such that the temperature pressure limits of Appendix G to 10 CFR 50 are maintained."

The use of Regulatory Position C.2, meets previously established criteria for the pressure temperature limits for the LTOP system and setpoint. Thus, the margin of safety as described in the NRC SER is not reduced.

(d) Operability requirements of the LTOP system.

The proposed change was reviewed in accordance with the provisions of 10 CFR 50.92 to show no significant hazards exist. The proposed change will not:

1) involve a significant increase in the probability or consequences of an accident previously evaluated.

LTOP is required in pressurized water reactors to provide protection against brittle failure of the reactor pressure vessel. This proposed TS provides additional administrative assurance that LTOP will be available to mitigate a pressure transient event. The proposed TS is consistent with the design basis of the LTOP system.

Consequently, this proposed TS provides increased assurance that the KNPP Appendix G pressure/temperature limits will not be exceeded during an overpressure event. Therefore, this proposed change will not increase the probability or consequences of an accident previously evaluated.

2) create the possibility of a new or different type of accident from an accident previously evaluated.

A new or different kind of accident from those previously evaluated will not be created by this TS change. The proposed TS is for the purpose of providing additional administrative assurance that LTOP will be available at the KNPP. The proposed TS is consistent with current plant practice regarding LTOP and will not alter the plant configuration or performance.

3) involve a significant reduction in the margin of safety.

This proposed TS change will not reduce the margin of safety. Rather, the proposed TS

change provides an additional administrative control to ensure LTOP availability. Consequently, the likelihood of a pressure transient exceeding the KNPP Appendix G pressure/temperature limits at low temperatures is reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P. O. Box 1497, Madison, Wisconsin 53701-1497.

NRC Project Director: John N. Hannon.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity For a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: June 17, 1993

Brief description of amendment request: The proposed amendment would change the Salem Nuclear Generating Station, Units 1 and 2, Updated Final Safety Analysis Report (UFSAR), Section 4.3 and 15.3.5, relative to single rod control cluster assembly (RCCA) withdrawal events. The change would incorporate a new assumption that a potential single failure in the rod control system can cause misoperation of a single or multiple RCCAs and provides the necessary analysis to show continued

compliance with General Design Criterion (GDC) 25. As a result, the changes would reclassify the single RCCA withdrawal event from a Condition III event to a Condition II event. This reclassification would assume an increased frequency in the occurrence of the event, but would show that the fuel design limits would not be exceeded.

Date of publication of individual notice in Federal Register: June 29, 1993 (58 FR 34833)

Expiration date of individual notice: July 29, 1993

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Notice of Issuance of amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the *Federal Register* as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, and

at the local public document rooms for the particular facilities involved.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station Units 1 and 2, Lake County, Illinois

Date of application for amendments: March 11, 1993, as supplemented June 21, 1993

Brief description of amendments: The amendments modify the Technical Specifications in accordance with Generic Letter 89-01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications (RETS) in the Administrative Controls Section of the Technical Specifications and Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual (ODCM) or to the Process Control Program (PCP)." The amendments implement the Generic Letter by relocating the procedural details of the current radioactive effluent and radiological environmental monitoring program and solid radioactive waste program to the offsite dose calculation manual and process control program, respectively; and incorporate related programmatic controls into the Administrative Controls section of the TS.

Date of issuance: June 29, 1993

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 146 and 134
Facility Operating License Nos. DPR-39 and DPR-48. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: April 28, 1993 (58 FR 25853) The June 21, 1993, submittal provided additional clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 29, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: April 30, 1993, as supplemented by letter dated May 26, 1993.

Brief description of amendment: The amendment modifies Technical Specification 3/4.8, "Electrical Power Systems," paragraph 4.8.1.1.2.b, to

reflect a design change that would change the allowable elapsed time for the automatic load sequencer for the "backup" containment air recirculation fans to 5 minutes plus or minus 30 seconds from 48 seconds plus or minus 5 seconds. The amendment also makes two editorial changes to amend the wording of "Backup" to "Second Containment Recirc. Fan" and add "First" to the beginning of "Containment Recirc. Fan" on the previous line.

Date of issuance: June 28, 1993

Effective date: June 28, 1993

Amendment No.: 160

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 26, 1993 (58 FR 30191) The May 26, 1993 submittal provided supplemental information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated June 28, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: June 27, 1991

Brief description of amendment: The amendment changed Technical Specifications (TS) 5.3.1.6 and 5.4.1.1 to increase the maximum allowable enrichment for future reload fuel from 3.5 to 4.1 weight percent uranium-235 (U-235). TS 5.4.1.1 was also revised to delineate the allowable storage positions in the fresh fuel rack. Additionally, "235U" is corrected to "U-235."

Date of issuance: June 28, 1993

Effective date: June 28, 1993

Amendment No.: 166

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 7, 1991 (56 FR 37580) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 28, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: February 24, 1993

Brief description of amendment: The amendment changed the flow test acceptance criteria for a single pump in the high pressure safety injection (HPSI) system from a minimum of 196 gallons-per-minute (gpm) for each injection leg to a total flow of 570 gpm, excluding the highest injection leg's flow rate.

Date of issuance: June 28, 1993

Effective date: June 28, 1993

Amendment No.: 148

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 31, 1993 (58 FR 16859) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 28, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: September 2, 1992

Brief description of amendments: The amendments would correct the reactor pressure vessel water level corresponding to the Top of Active Fuel for both units. The correct value is 6 inches higher than the value shown in TS Figure 2.1-1 for Unit 1 and Figure B 3/4 3-1 for Unit 2.

Date of issuance: July 1, 1993

Effective date: To be implemented no later than 60 days from the date of issuance

Amendment Nos.: 187 and 126

Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: April 14, 1993 (58 FR 19480) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 1, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of application for amendment: April 29, 1993

Brief description of amendment request: The amendments revise Technical Specification (TS) Definition 1.19, "Offsite Dose Calculation Manual," TS 3.11.1.4, "Liquid Holdup Tanks," TS 3.11.2.6, "Gas Storage Tanks," TS 6.9.1.4, "Semiannual Radioactive Effluent Release Report," and TS 6.14, "Offsite Dose Calculation Manual," to extend the Radioactive Effluent Release Report submittal frequency from semiannual to annual in accordance with the revised 10 CFR 50.36a.

Date of issuance: June 29, 1993

Effective date: June 29, 1993

Amendment Nos.: 52 and 41

Facility Operating License Nos. NPF-76 and NPF-80. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 26, 1993 (58 FR 30196) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 29, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton Texas 77488.

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: May 1, 1992, as supplemented June 18, 1993.

Brief description of amendments: The amendments change the Technical Specifications (TS) in accordance with the guidance provided in Generic Letter (GL) 90-09. The changes revise the snubber visual inspection surveillance requirements in Unit 1 TS 3/4.7.8, Unit 2 TS 3/4.7.7, and their associated bases. The amendments also remove the Unit 1 and Unit 2 snubber components lists from TS Tables 3.7.4 and 3.7.9 of Unit 1 TS 3/4.7.8 and Unit 2 TS 3/4.7.7, respectively in accordance with the guidance contained in GL 84-13.

Date of issuance: July 9, 1993

Effective date: July 9, 1993

Amendment Nos.: 173 and 156

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 3, 1993 (58 FR 12261). The June 18, 1993, letter provided updated TS pages only and did not change the original no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 9, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenska Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Maine Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: April 7, 1993

Brief description of amendment: This amendment increases the membership and quorum requirements of the Plant Operation Review Committee (PORC), to reflect current plant management positions, and adds three analytical methods to the list of analytical methods approved by the NRC for determining core operating limits.

Date of issuance: July 1, 1993

Effective date: July 1, 1993

Amendment No.: 139

Facility Operating License No. DPR-36. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 12, 1993 (58 FR 28057) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: February 25, 1992, as supplemented by letters dated June 9, 1992, and June 14, 1993.

Brief description of amendment: The amendment clarifies the performance criteria and surveillance requirements for the Cooper Nuclear Station DC power systems by adding new specifications and surveillance requirements, and by reformatting, to incorporate many features of the BWR/4 Standard Technical Specifications.

Date of issuance: July 7, 1993

Effective date: Within 30 days of the date of issuance.

Amendment No.: 164

Facility Operating License No. DPR-46. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 10, 1992 (57 FR 24673). The additional information contained in the supplemental letters dated June 9, 1992, and June 14, 1993, was clarifying in nature and, thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 7, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room
location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Northern States Power Company,
Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: December 31, 1992

Brief description of amendment: The amendment revises Technical Specification Surveillance Requirement 4.13.B.1.e, "Fire Suppression Water System," by changing the American Society for Testing and Materials (ASTM) standards which are to be followed when performing required sampling and analysis of the diesel fire pump fuel oil supply.

Date of issuance: June 29, 1993

Effective date: June 29, 1993

Amendment No.: 85

Facility Operating License No. DPR-22: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 28, 1993 (58 FR 25861). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 29, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room
location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company,
Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 25, 1993, as supplemented by letter dated May 24, 1993

Brief description of amendments: These amendments modify the existing Limiting Conditions for Operation, surveillance requirements, and bases to reflect the new containment monitoring

system hydrogen/oxygen analyzers. The new analyzers are to be installed in Unit 3 during the scheduled September 1993 refueling outage and will support the Containment Atmospheric Dilution (CAD) system and the Containment Atmospheric Control (CAC) system. The new requirements apply to the Unit 3 TS. The Unit 2 TS 3.7.A.6.c CAD requirements have been changed to eliminate a reference to "either" reactor.

Date of issuance: July 1, 1993

Effective date: As of startup of Unit 3 following refueling outage 3R09.

Amendments Nos.: 177 and 180

Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: April 14, 1993 (58 FR 19486). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 1, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room
location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: March 9, 1993

Brief description of amendment: The amendment revises the Technical Specifications (TSs) to incorporate editorial changes, correct typographical errors, and adjust line spacing and text formats. In addition, the amendment deletes pertinent portions of the TSs that relate to exceptions that are no longer applicable. The amendment does not make any substantive changes to the TSs.

Date of issuance: June 29, 1993

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 190

Facility Operating License No. DPR-59: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 26, 1993 (58 FR 30198). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 29, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room
location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: April 16, 1993

Brief description of amendment: The amendment modifies Technical Specification (TS) 4.12.F.1 to require a visual inspection of all fire barrier penetration seals for each protected area once per operating cycle, in lieu of once per 1.5 years. In addition, the modification deletes the footnote to TS 4.12.F.1 that was added under TS Amendment No. 177. The amendment, which allowed a one-time 3 month extension of the surveillance interval for visually inspecting the fire barrier penetration seals, is no longer applicable to the facility.

Date of issuance: July 7, 1993

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 191

Facility Operating License No. DPR-59: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 26, 1993 (58 FR 30198). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 7, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room
location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: August 27, 1991; supplemented November 6, 1992 (TS 91-09)

Brief description of amendments: The amendments incorporate various changes to the Technical Specifications related to the Containment Gas and Particulate Radiation Monitor System, the Containment Purge Air Radiation Monitor System, and the switches associated with a manual trip of the Containment Spray System and the Phase "B" Isolation System.

Date of issuance: June 25, 1993

Effective date: June 25, 1993

Amendment Nos.: Unit 1 - 168, Unit 2 - 158

Facility Operating License Nos. DPR-77 and DPR-79: Amendments revise the technical specifications.

Date of initial notice in Federal Register: October 2, 1991 (56 FR 49928).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 25, 1993.

No significant hazards consideration comments received: None

Local Public Document Room
location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402

TU Electric Company, Docket Nos. 50-445 and 50-446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment requests: May 14, 1993.

Brief description of amendment: The amendments revised the Comanche Peak Steam Electric Station (CPSES), Units 1 and 2 Technical Specifications to extend the period for the removal of the operability requirements of the boron dilution mitigation system.

Date of issuance: June 28, 1993

Effective date: June 28, 1993, to be implemented within 30 days of issuance.

Amendment Nos.: 16 and 2
Facility Operating License Nos. NPF-87 and NPF-89: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 27, 1993 (58 FR 30827).

No significant hazards consideration comments received: No

Local Public Document Room
location: University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P. O. Box 19497, Arlington, Texas 76019.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: November 10, 1992, and April 16, 1993

Brief description of amendment: The amendment revises the Technical Specification 3.9.7 to allow movement of the spent fuel transfer gates over the spent fuel pool during refueling activities, fuel handling system maintenance and transfer gate seal replacement.

Date of issuance: June 29, 1993

Effective date: June 29, 1993

Amendment No.: 81

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 12, 1993 (58 FR 28061)
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 29, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room
location: Callaway County Public

Library, 710 Court Street, Fulton, Missouri 65251.

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: November 5, 1992

Brief description of amendment: The amendment modifies Technical Specification 4.2.1.1 associated with monitoring and logging of axial flux difference (AFD). The change eliminates the increased monitoring frequency following the restoration of the AFD monitor alarm and the increased monitoring and logging frequency (to once per 30 minutes) associated with the alarm being inoperable for greater than 24 hours.

Date of issuance: July 7, 1993

Effective date: July 7, 1993

Amendment No.: 64

Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 23, 1992 (57 FR 61123). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 7, 1993

No significant hazards consideration comments received: No.

Local Public Document Room
Locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Dated at Rockville, Maryland, this 14th day of July 1993.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Director, Division of Reactor Projects - III/
IV/V, Office of Nuclear Reactor Regulation.
[Doc. 93-17185 Filed 7-20-93; 8:45 am]

BILLING CODE 7590-01-F

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-32633; File No. SR-CBOE-93-24]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Telephones Located on the Floor of the Exchange

July 14, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 7, 1993, the Chicago Board Options Exchange, Inc.

("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to treat as a rule of the Exchange the conditions governing the use of member-owned and Exchange-owned telephones located at equity option trading posts on the floor of the Exchange. The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to incorporate into the rules of the Exchange the conditions recently imposed by the Exchange as governing the use of member-owned and Exchange-owned telephones located at equity option trading posts on the floor of the Exchange. Exchange Rule 6.23 prohibits members from establishing or maintaining any telephone or other wire communications between their offices and the Exchange floor, and it authorizes the Exchange to direct the discontinuance of any communication facility terminating on the Exchange floor. Pursuant to this Rule, prior to October 1992 the Exchange did not permit any telephones at equity option posts on the trading floor, other than at posts where a Designated Primary Market-Maker had been appointed, and other than intercom telephones connecting the floor with other locations within the Exchange, but

incapable of making or receiving outside calls.

In October 1992, the Exchange determined to modify its policy to permit the installation of both Exchange-owned and member-owned telephones at equity option posts on the trading floor, and it promulgated Information Circular IC92-118 ("Circular") to inform the membership of this new policy and the fees, charges, and conditions associated with the use of such telephones.¹ At the time it issued the Circular, the Exchange determined that the conditions applicable to the use of floor telephones would not be treated as rules of the Exchange, and accordingly would neither impose surveillance obligations on the Exchange nor subject members to formal disciplinary proceedings for violations. Instead, the Exchange treated these conditions as requirements that would have to be satisfied if the Exchange were to continue to permit telephones to be located on the equity option trading floor.

Now that the Exchange has had several months of experience with floor telephones, it proposes to incorporate into its rules those conditions set forth in the Circular as applying to the use of telephones at equity options trading posts. Specially, these conditions are the following:

1. There will be no restrictions on where a Member may call.
2. Floor telephones may not be used to receive orders, although they may be used to provide quotations.
3. Members may give their clerks their personal identification number ("PIN") access codes. Although both Members and clerks may use the post telephones, Members will have priority. Liability for all calls made using a Member's PIN access code will be that of the Member.
4. Stock clerks will not be permitted to establish a base of operations utilizing post telephones.
5. Members and their clerks using the telephones consent to the Exchange requiring that any telephone or line be subject to tape recording.
6. The telephones will be used for voice service only. Data (PC's fax, etc.) will remain subject to Exchange consent under a separate program.
7. Cellular or portable telephones may not be used on the trading floor.
8. Telephone headsets may not be used on the equity options floor.

¹ Fees and charges applicable to the use of telephones located at equity option trading posts on the floor of the Exchange were filed on February 23, 1993, and June 10, 1993. See Securities Exchange Act Release No. 32463 (June 15, 1993), 58 FR 33850, and Securities Exchange Act Release No. 32515 (June 25, 1993), 58 FR 35990.

Upon the approval of these conditions as rules of the Exchange, the Circular will be republished as a Regulatory Circular in order to inform members that these conditions are rules, and that violations may lead to disciplinary proceedings.

The Exchange believes it is now appropriate to treat these conditions as Exchange rules in order to be able to utilize both informal and formal disciplinary proceedings and sanctions to promote compliance. In the case of the prohibition against telephoned orders, the Exchange believes that it is important that orders be entered through properly registered persons at member firms that are specifically qualified to do a public customer business, so that all of the investor protection and safeguards embodied in Exchange customer protection rules may apply. By restricting floor telephones to hard-wired devices only and not allowing cellular, portable or headset telephones, the Exchange believes it will better be able to monitor and control telephone usage on the floor. In addition, the Exchange believes that currently available technology would not permit a large number of portable or cellular telephones to be used in the environment of the trading floor without significant deterioration or interruption of service.

The Exchange intends to police compliance with these conditions by means of customary floor surveillance procedures, including reliance on surveillance by floor officials and Exchange employees. However, the Exchange does not intend to monitor or record incoming or outgoing telephone calls. The Exchange believes that recording or monitoring calls raises serious questions of legality under Illinois law, as well as other significant privacy issues. Further, the Exchange does not believe that it would be cost effective to monitor what could well amount to thousands of hours of telephone conversations annually, when reliance on customary floor surveillance procedures and self-policing by members should be sufficient to identify significant rule violations.

The CBOE believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5) of the Act, in particular, in that they are designed to improve communications to and from the Exchange's equity options trading floor in a manner that promotes just and equitable principles of trade, perfects the mechanism of a free and open market, and protects investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve such proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-93-24 and should be submitted by August 11, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²

² 17 CFR 200.30-3(a)(12) (1993).

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 93-17230 Filed 7-20-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32631; File No. SR-MSE-93-10]

Self-Regulatory Organizations; Order Granting Accelerated Approval of a Proposed Rule Change by the Midwest Stock Exchange, Inc., Relating to the Permanent Approval of SuperMAX and a Two-Tiered Fill-Size Parameter for SuperMAX Issues

July 14, 1993.

On May 5, 1993, the Midwest Stock Exchange, Inc. ("MSE")¹ filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-MSE-93-10) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").² The purpose of the proposal is to establish the MSE's Super MAX system on a permanent basis and to amend the current SuperMAX "fill-size" parameters for eligible issues by establishing a two-tiered system for SuperMAX fills. Notice of the proposal appeared in the Federal Register on June 23, 1993.³ The Commission has received no comments on the proposal. For the reasons discussed below, the Commission is granting accelerated approval to the proposal.

I. Description

The purpose of the rule change is to permanently approve the Exchange's SuperMAX system³ on a voluntary basis and to raise the "fill size" parameters for certain SuperMAX issues by establishing a two-tiered system for SuperMAX fills. The two-tiered system will consist of: (1) The top 500 most actively traded issues, which will have an increased fill size parameter set at 1099 shares; and (2) all other issues,

which will continue at the current fill size parameter of 599 shares.

SuperMAX, which is currently operating as a pilot program, provides that the execution price of small agency market orders received over the Midwest Automated Execution System (MAX) may be automatically improved from the consolidated best bid or offer according to certain pre-defined criteria. The Exchange seeks Commission approval of SuperMAX on a permanent basis while continuing to operate SuperMAX as a voluntary system, by specialist, on a stock by stock basis.

MAX executes agency market orders through the SuperMAX program without any specialist intervention based upon the following criteria:

(1) Both buy and sell orders in market quoted with a minimum variation ($\frac{1}{4}$ th spread or orders which do not meet the criteria in 2 or 3 below) will be executed based upon the consolidated best bid or offer.

(2) Buy orders in markets quoted with more than $\frac{1}{4}$ th spread will be executed at a price $\frac{1}{4}$ th better than the consolidated best offer if (a) an execution at the consolidated best offer would create a double up-tick based upon the last sale in the primary market or (b) an execution at the consolidated best offer would result in a greater than a $\frac{1}{4}$ th price change from the last sale in the primary market.

(3) Sell orders in markets quoted with more than $\frac{1}{4}$ th spread will be executed at a price $\frac{1}{4}$ th better than the consolidated best bid if (a) an execution at the consolidated best bid would create a double down-tick based upon the last sale in the primary market or (b) an execution at the consolidated best bid would result in a greater than a $\frac{1}{4}$ th price change from the last sale in the primary market.

For example, the execution price for a market buy order in a $\frac{1}{4}$ - $\frac{1}{2}$ quoted market is as follows:

Tick/last sale	Execution price
+ $\frac{1}{2}$	$\frac{1}{2}$
+ $\frac{3}{8}$	$\frac{3}{8}$
- $\frac{3}{8}$	$\frac{1}{2}$
- $\frac{1}{4}$	$\frac{3}{8}$
+ $\frac{1}{4}$	$\frac{3}{8}$ (if in range)

The execution price for a market buy order in a $\frac{1}{4}$ - $\frac{3}{8}$ quoted market, is as follows:

Tick/last sale	Execution price
+ $\frac{5}{8}$	$\frac{5}{8}$
+ $\frac{1}{2}$	$\frac{1}{2}$
+ $\frac{3}{8}$	$\frac{1}{2}$
- $\frac{1}{2}$	$\frac{5}{8}$

Tick/last sale	Execution price
- $\frac{3}{8}$	$\frac{1}{2}$
- $\frac{1}{4}$	$\frac{1}{2}$
+ $\frac{1}{4}$	$\frac{1}{2}$

The execution price for a market sell order in a $\frac{1}{4}$ - $\frac{1}{2}$ quoted market, is as follows:

Tick/last sale	Execution price
- $\frac{1}{4}$	$\frac{1}{4}$
- $\frac{3}{8}$	$\frac{3}{8}$
+ $\frac{3}{8}$	$\frac{1}{4}$
+ $\frac{1}{2}$	$\frac{3}{8}$

Any eligible order in a stock included in SuperMAX which is manually presented at the specialist post by a floor broker must also be guaranteed an execution by the specialist pursuant to the above listed criteria. In the event that a contra side order which would better a SuperMAX execution is presented at the post, the incoming order which is executed pursuant to the SuperMAX criteria must be adjusted to the better price.

SuperMAX will operate during the trading day from 8:30 a.m. (CST) until the close. During volatile periods, individual stocks or all stocks may be removed from SuperMAX with the approval of two members of the Committee on Floor Procedure.

In support of its request seeking permanent approval, and consistent with the Commission's interest in receiving information regarding SuperMAX, the Exchange's Specialist participation in SuperMAX is approximately 80 percent for the 900 issues traded over the SuperMAX system, or about 40 percent of the total issues traded on the Exchange. While the Exchange cannot provide historical information regarding the number of times an execution is bettered through SuperMAX, there is never an instance where SuperMAX provides an inferior fill to a regular MAX execution.

However, when a market is quoted with a one quarter point spread, or more, and an execution would result in a double up-tick or double down-tick, or in an execution more than $\frac{1}{8}$ point away from the last sale, customers receive price improvement 100% of the time.⁴

II. Discussion

The Commission finds that approval of the proposed change is consistent

⁴ For example, if the market in ABC stock is $\frac{1}{4}$ - $\frac{1}{2}$ with the last sale at $\frac{3}{8}$ on an uptick, and an agency market order is received to buy 200 shares of ABC at the market, the order would automatically be filled at $\frac{3}{8}$.

¹ On July 8, 1993, The Midwest Stock Exchange formerly changed its name to the Chicago Stock Exchange. For purposes of convenience and consistency, the old name and acronym are used in this order.

² 15 U.S.C. 78s(b)(1).

³ Securities Exchange Act Release No. 32484 (June 16, 1993), 58 FR 34112.

⁴ The Exchange initially established SuperMAX as a pilot program on May 14, 1990. See Securities Exchange Act Release No. 28014 (May 14, 1990), 55 FR 20990 (order approving SR-MSE-90-05). The Exchange initially sought permanent approval for SuperMAX in its filing SR-MSE-90-17; however, that request was held in abeyance while the Exchange operated both the SuperMAX and the Enhanced SuperMAX pilot programs. The pilot program for Enhanced SuperMAX expired on April 14, 1993. The Exchange did not seek permanent approval for enhanced SuperMAX at any time, nor does it seek permanent approval here.

with Sections 6 and 11A of the Act, in that it will promote just and equitable principles of trade, perfect the mechanism of a free and open market and a national market system and in general, further investor protection and the public interest, as well facilitate the practicability of brokers executing investors' orders in the best market, and finally, contribute to the best execution of such orders.

Permanent approval of SuperMAX will allow for small agency market orders to receive an execution at a price that may be better than the consolidated best bid or offer according to certain predefined criteria. The automated execution feature of SuperMAX provides a much more efficient means of bettering the execution price on a large volume of machine delivered market orders than manual processing could. The execution criteria of SuperMAX also contributes to an orderly market because they help to reduce variations from trade to trade on small volume.

By increasing the fill size parameters for SuperMAX issues in the top 500 most actively traded issues to 1099 shares (while keeping the fill size for other SuperMAX issues at 599), a larger universe of agency market orders are eligible for SuperMAX executions. Because SuperMAX allows for small agency market orders to be guaranteed an execution at a price that is better than the consolidated best bid or offer according to certain pre-defined criteria, this change works to increase the number of agency market orders that could benefit from better price executions through SuperMAX.

The Commission finds good cause for approving the proposed rule change on an accelerated basis prior to the thirtieth day after the date of publication of the notice of filing thereof in that the pilot program under which SuperMAX is currently operating is set to expire on July 15, 1993.⁵ Accelerated approval will permit the MSE to continue using SuperMAX without interruption.

III. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule is consistent with the Act and the rules and regulations thereunder applicable to the MSE and in particular, Sections 6 and 11A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule relating to the SuperMAX system be, and hereby is, approved.

⁵ See Securities Exchange Act Release No. 32407 (June 3, 1993), 58 FR 32554.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 93-17291 Filed 7-20-93; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-32639; File No. SR-NASD-92-51]

Self-Regulatory Organizations; Filing of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Enforcement of Arbitrators' Orders Under the NASD Code of Arbitration Procedure

July 15, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 2, 1993 the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") and amended on June 11, 1993, the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is herewith filing a proposed rule change to Part I, Section 1 and Part II, Sections 8 and 9 of the NASD Code of Arbitration Procedure ("Code"). Below is the text of the proposed rule change. Proposed new language is in *italics*, proposed deletions are in *brackets*.

Code of Arbitration Procedure

Part I—Administrative Provisions

Matters Eligible for Submission

Sec. 1. This Code of Arbitration Procedure is prescribed and adopted pursuant to Article VII, Section 1(a)(3) of the By-Laws of the National Association of Securities Dealers, Inc., (the Association) for the arbitration of any dispute, claim or controversy arising out of or in connection with the business of any member of the Association, or arising out of the

¹ Amendment No. 1 to SR-NASD-92-51 was filed on February 9, 1993 to modify the rule language of Section 9(a) to Part II of the Code of Arbitration Procedure to delete a reference to disputes claiming "wrongful discharge." Amendments No. 2 and 3 were filed on May 18, 1993 and June 11, 1993 respectively, to amend Part I, Section 1 of the Code to clarify the applicability of the Code to employment related disputes.

employment or termination of employment of associated person(s) with any member, with the exception of disputes involving the insurance business of any member which is also an insurance company:

- (1) between or among members;
- (2) between or among members and associated persons;
- (3) (3) between or among members or associated persons and public customers, or others; and
- (3) (4) between or among members, registered clearing agencies with which the Association has entered into an agreement to utilize the Association's arbitration facilities and procedures, and participants, pledgees or other persons using the facilities of a registered clearing agency, as these terms are defined under the rules of such a registered clearing agency.

Part II—Industry and Clearing Controversies

Required Submission

Sec. 8. (a) Any dispute, claim or controversy eligible for submission under Part I of this Code between or among members and/or associated persons, and/or certain others, arising in connection with the business of such member(s) or in connection with the activities of such associated person(s), or arising out of the employment or termination of employment of such associated person(s) with such member, shall be arbitrated under this Code, at the instance of:

- (1) A member against another member;
 - (2) A member against a person associated with a member or a person associated with a member against a member; and,
 - (3) A person associated with a member against a person associated with a member.
- (b) Unchanged.

Composition of Panels

Sec. 9. (a) In disputes subject to arbitration that arise out of the employment or termination of employment of an associated person, and that relate exclusively to disputes involving employment contracts, promissory notes, or receipt of commissions, the panel of arbitrators shall be appointed as provided by Sections 9(b)(i), (b)(ii) or 10 of the Code, whichever is applicable. In all other disputes arising out of the employment or termination of employment of an associated person, the panel of arbitrators shall be appointed as provided by Section 13 or 19 of the Code, whichever is applicable.

[(a)] (b) (i) Except as otherwise provided in Section 9(a) or 10 of the Code, in all arbitration matters between or among members and/or persons associated with members, and where the amount in controversy does not exceed \$30,000, the Director of Arbitration shall appoint a single arbitrator to decide the matter in controversy. The arbitrator chosen shall be from the securities industry. Upon the request of a party in its initial filing or the arbitrator, the Director of Arbitration shall appoint a panel of three (3) arbitrators, all of whom shall be from the securities industry.

[(b)] (ii) In all arbitration matters between or among members and/or persons associated with members and where the amount in controversy exceeds \$30,000, a panel shall consist of three arbitrators, all of whom shall be from the securities industry.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The NASD is proposing to amend Section 1 of Part I and Sections 8 and 9 of Part II of the Code to clarify that employment-related disputes are arbitrable under Section 8, and to provide that in cases involving employment discrimination claims or claims involving public policy issues, the panel should consist of a majority of public arbitrators.

The NASD is proposing to amend Section 1 of the Code to provide that disputes, claims or controversies arising out of the employment or termination of employment of an associated person are eligible for submission to arbitration. A parallel rule change is also proposed to Section 8, which addresses industry and clearing controversies that are required to be submitted to arbitration. In addition, the NASD is proposing to amend Section 1 to clarify that disputes between or among members and

associated persons are eligible for submission to arbitration under the Code. These changes are intended to assure that the arbitration of industry employment disputes may be compelled at the instance of one of the parties to the dispute.

The NASD is also proposing to amend Section 1 to clarify that disputes between or among associated persons and public customers are eligible for submission to arbitration.

Section 9(a) is also proposed to be amended to provide that, in disputes subject to arbitration that arise out of the employment or termination of employment of an associated person, and that relate exclusively to disputes involving employment contracts, promissory notes, or receipt of commissions, the panel of arbitrators shall be made up of industry arbitrators as provided by Sections 9(b)(i), (b)(ii) or 10 of the Code. In all other instances,² which would normally include claims of employment discrimination on the basis of age, sex or race, or relating to sexual harassment, the panel of arbitrators would be chosen under Section 13 or 19, whichever is applicable. This would result in a panel with a single public arbitrator or a majority of public arbitrators. The NASD's action in proposing this rule change is not meant to indicate that industry panels have not fairly handled these cases, but is rather intended to recognize the public policy implications of such cases.

The proposed rule change to Sections 1 and 8 was prompted by a decision of the California Court of Appeals, *Higgins v. The Superior Court of Los Angeles County*, (Cal. App. Oct. 8, 1991), review denied and decision ordered not officially published, 1 Cal.Rptr. 2d 57 (1992), in which the court held that the NASD's Section 8 language did not cover employment disputes, but only covered disputes arising out of or in connection with business transactions. The court distinguished prior case precedent, including *Gilmer v. Interstate/Johnson Lane Corp.*, 500 U.S. 111 S. Ct. 1647, 114 L.Ed 2d 26 (1991), which compelled arbitration of an age discrimination claim before the New York Stock Exchange (NYSE). The court found dispositive the difference between the language of Section 8 and the NYSE rule governing industry disputes. NYSE Rule 347 requires

² The NASD clarified in Amendment No. 1 to the proposed rule change that where a claim of wrongful discharge contains allegations that would indicate violations of any federal, state or local anti-discrimination law, the NASD intends that such claims be heard by a panel with a majority of public arbitrators.

arbitration of "[a]ny controversy between a registered representative and any member of member organization arising out of the employment or termination of employment of such registered representative." The NASD has taken the position that employment disputes are arbitrable under Section 8, but in order to clear up any ambiguity, it is proposing the changes described above, which parallel the NYSE rule language.

With regard to the proposed change to Section 9(a), securities industry panels are currently utilized in all claims involving the employment or termination of employment of associated persons. The staff of the NASD's Arbitration Department strives to select a balanced panel that might include an arbitrator involved in management, a registered representative, and an attorney who devotes a substantial portion of his or her work effort to securities industry clients. On occasion, the parties will stipulate to one or more public arbitrators on the panel, depending on the subject matter of the claim. The NYSE, by contrast, considers associated persons to be non-members, and thus requires that they be assigned a panel with a majority of public arbitrators, unless they request an industry panel.³

The NASD has determined that in certain types of disputes, involving employment contracts, promissory notes, receipt of commissions and wrongful discharge, the issues relate to industry practice and require industry experience. In other disputes, involving public policy issues such as employment discrimination and sexual harassment, there is less need for an industry panel and the interests of the parties may be better served by a panel consisting of a majority of public arbitrators.

(b) The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁴ in that the proposed rule change will facilitate the arbitration process in the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

³ See NYSE Rules 607(a)(1) and 632.

⁴ 15 U.S.C. 78o-3.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. By order approve such proposed rule change, or
- B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by August 11, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-17290 Filed 7-20-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32632; File No. SR-NASD-90-30]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Close-Out Requirements for Short Sales and an Interpretation on Prompt Receipt and Delivery of Securities

July 14, 1993.

I. Introduction

On May 23, 1990,¹ the National Association of Securities Dealers, Inc. ("NASD" or "Association") submitted a proposed rule change to the Securities and Exchange Commission ("SEC" or "Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder.³ The rule change adds section 71 to the NASD's Uniform Practice Code ("Code") to set forth a new requirement to close-out short sales in Nasdaq securities that meet a certain short position threshold. In addition, the proposal amends the NASD Board of Governors' Interpretation on Prompt Receipt and Delivery of Securities ("Interpretation")⁴ to set forth examples of "bona fide fully hedged" and "bona fide fully arbitrated" for the purposes of exemptions from various short sale requirements. Set out in the Appendix to this Order is the text of the rule change, as amended. Additions to the rule appear in *italics*.

Notice of the proposed rule change appeared in the *Federal Register* on July 16, 1990.⁵ The Commission received eight letters from four commentators addressing the rule change,⁶ the

substance of which is discussed below. This order approves the proposed rule change, as amended.

II. Background

In July 1986, the NASD issued a report detailing a study of short selling practices in the over-the-counter ("OTC") securities market ("Pollack Study").⁷ As a result of recommendations contained in the Pollack Study, the NASD has taken a number of regulatory initiatives regarding short selling. The NASD now requires members to mark all sale transactions either "long" or "short,"⁸ requires members to make an affirmative determination that they will receive delivery of a security from a customer or that they can borrow a security on behalf of a customer prior to accepting a short sale from a customer,⁹ requires a member to make an affirmative determination that it can borrow the security before effecting a short sale for its own account (certain transactions in corporate debt securities, bona fide market making activities and fully hedged or arbitrated positions are exempt);¹⁰ imposes mandatory buy-in requirements for cash or guaranteed delivery for Nasdaq securities where the buyer is a customer other than another NASD member, upon failure of a clearing corporation to effect delivery pursuant to a buy-in notice;¹¹ and requires members to report, as of the 15th of each month, aggregate short positions in all customer and proprietary accounts in securities

March 27, 1991; Robert A. Mackie, R.A. Mackie & Co., Inc., to Lewis Antone, Division of Market Regulation, SEC, dated November 20, 1991; Robert A. Mackie, R.A. Mackie & Co., Inc., to Katherine England, Branch Chief, OTC Regulation, SEC, dated February 16, 1992; E.E. Geduld, President, John E. Herzog, Chairman/CEO, Herzog, Heine, Geduld, to Katherine England, Branch Chief, OTC Regulation, SEC dated May 6, 1992; Robert A. Mackie, Allen & Co., Inc., to Katherine England, Branch Chief, OTC Regulation, SEC, dated June 9, 1992; and E.E. Geduld, President, John E. Herzog, Chairman/CEO, Herzog, Heine, Geduld, to Katherine England, Branch Chief, OTC Regulation SEC, dated August 14, 1992.

⁷ I. Pollack, Short-Sale Regulation of Nasdaq Securities (July 1986).

⁸ Securities Exchange Act Release No. 23572 (August 28, 1986), 51 FR 31865 (September 5, 1986). NASD Manual, Rules of Fair Practice, Art. III, Sec. 21(b)(i), (CCH) ¶2171.

⁹ Securities Exchange Act Release No. 23572 (August 28, 1986), 51 FR 31865 (September 5, 1986). NASD Manual, Rules of Fair Practice, Art. III, Sec. 1, Interpretation of the Board of Governors on Prompt Receipt and Delivery of Securities, (CCH) ¶2151.04.

¹⁰ Securities Exchange Act Release No. 28186 (July 5, 1990), 55 FR 28703 (July 12, 1990).

¹¹ Securities Exchange Act Release No. 26694 (April 4, 1989), 54 FR 14404 (April 11, 1989). NASD Manual, Uniform Practice Code, Sec. 59, (CCH) ¶3559.

¹ On September 11, 1991, the NASD submitted Amendment No. 1 to the proposed rule change. On January 3, 1992, the NASD withdrew Amendment No. 1 and provided substitute Amendment No. 1. Substitute Amendment No. 1, which is a technical amendment, clarifies the language contained in the examples of "bona fide fully hedged" and "bona fide fully arbitrated" and states that the examples provided are for illustrative purposes and are not intended to limit the NASD's ability to determine the proper scope of those terms.

² 15 U.S.C. 78s(b)(1) (1988).

³ 17 CFR 240.19b-4 (1992).

⁴ NASD Manual, Rules of Fair Practice, Art. III, Sec. 1, (CCH) ¶2151.04.

⁵ See Securities Exchange Act Release No. 28192, July 10, 1990, 55 FR 28972.

⁶ Letter from Thomas J. Jennings, to Katherine England, Branch Chief, OTC Regulation, SEC, dated June 27, 1990; Honorable Doug Barnard, Jr., Chairman, Congress of the United States, House of Representatives, Commerce, Consumer, and Monetary Affairs Subcommittee of the Committee on Government Operations, to Hon. Richard Breiden, Chairman, SEC, dated March 26, 1991; Honorable Doug Barnard, Jr., Chairman, Congress of the United States, House of Representatives, Commerce, Consumer, and Monetary Affairs Subcommittee of the Committee on Government Operations, to Jonathan Katz, Secretary, SEC, dated

included on Nasdaq.¹² In addition, the NASD has proposed a rule change that would prohibit short sales of Nasdaq/National Market System securities at or below the current inside bid when that bid is lower than the previous inside bid.¹³

In addition to the changes mentioned above, the Pollack Study recommended that the NASD address the fail-to-deliver/fail-to-receive¹⁴ problem created by naked short selling.¹⁵ The Pollack Study indicated that the lack of an automatic mechanism for preventing the build-up of short positions at clearing corporations carried the potential for serious problems, especially in times of market stress.¹⁶ As a result of the recommendations contained in the Pollack Study, the NASD proposed to its membership that it adopt a mandatory buy-in requirement for all transactions that were not settled within a certain number of days.¹⁷ Overwhelming negative comment led the NASD to recast the proposal to require members to close-out short sales in certain securities.

III. Description of the Rule Change

New section 71 of the Code requires the short seller's broker to close-out a short sale of specific securities ten days after the normal settlement date if delivery of securities has not occurred and an exemption from the close-out requirement is not warranted. Securities subject to the close-out requirement are those that the NASD determines have an aggregate "clearing" short position of 10,000 shares or more that equals or exceeds one half of one percent of the total shares outstanding. The NASD will identify these securities daily based on data from the National Securities Clearing Corporation ("NSCC") and will compile a "restricted list,"¹⁸ meaning that any subsequent short sale

transaction not completed by delivery of shares within the prescribed time frames will be subject to mandatory close-out if a "fail-to-deliver" situation exists ten days after normal settlement date.

The rule applies to customer and proprietary short sales, but exempts "bona fide" market making activities and short sales in which the resulting position is "bona fide" fully hedged or arbitrated.¹⁹ For example, the close-out rule applies if a broker-dealer sells a restricted security short from its proprietary account to another broker-dealer and fails to deliver the security within 10 days of normal settlement date. The rule also applies if the firm makes the same transaction for a customer.²⁰ However, if the short sale is part of a bona fide market making transaction, the firm is exempt from the close-out requirement. Any short sale of a restricted security that results in a position that is fully hedged or fully arbitrated, also is exempt from the mandatory close-out requirement.²¹

IV. Comment Letters

As noted above, four commentators addressed the proposal, three of whom were critical of the rule change in some respect.²² One commentator expressed concern that the proposal did not go far enough in addressing potential problems associated with short sales and suggested that the rule should be broadened to cover more securities and apply, without exceptions, when unsettled trades in a security exceed certain nominal thresholds. This reflected a concern about widespread naked short selling of Nasdaq issues in violation of NASD rules that resulted in persistent open clearing positions. This commentator also expressed concern that the rule change could be evaded

easily because the exemption for hedged transactions did not prevent the investor from later selling the assets that hedged the short sale transactions and two persons could arrange periodic trades to cover short positions temporarily.

In response,²³ the NASD stated that there are many reasons why certain securities have unsettled trades at clearing corporations for lengthy periods, which may be completely unrelated to short selling, such as a member firm's segregation requirements under Rule 15c3-3 of the Act,²⁴ transfer delays or some characteristic of the security that prevents delivery.²⁵ The NASD concluded that nearly all stocks that develop large, persistent fails-to-deliver conditions at clearing corporations would be covered by the close-out rule because the rule focuses on persistent rather than temporary fail-to-deliver situations.

In response to concerns regarding possible evasion of the rule by selling assets used to hedge an exempted short position, the NASD indicated that hedged positions accounted for less than 2% of the total shares of reported short interest in the stocks covered by its analysis. The NASD further indicated that any evasion of the rule will be monitored by its Market Surveillance Department and that violations of short sale rules in the past have been the subject of disciplinary action by the Market Surveillance Committee. In conclusion, the NASD stated that the close-out rule would add substantially to the ability of the NASD to eliminate naked short selling as a regulatory problem and would address the few cases in which the potential effects of unsettled trades may create regulatory or market concern.

The remaining commentators expressed concern that the exemption from the close-out rule for warrant hedging is unnecessarily restrictive.²⁶

¹² Securities Exchange Act Release No. 23855 (December 1, 1986), 51 FR 44170 (December 8, 1986). NASD Manual, Rules of Fair Practice, Art. III, Sec. 41, (CCH) ¶2200A.

¹³ Securities Exchange Act Release No. 31003 (August 6, 1992), 57 FR 36421 (August 13, 1992), providing notice of File No. SR-NASD-92-12. Securities Exchange Act Release No. 31729 (January 17, 1993), 58 FR 5791 (January 22, 1993), providing notice of Amendment No. 3. The proposal also contains an exemption for "qualified" market makers.

¹⁴ In fail-to-deliver or fail-to-receive transactions the normal clearance and settlement process is interrupted by a failure to either receive or deliver the security in question.

¹⁵ Pollack Study at 69.

¹⁶ Id.

¹⁷ NASD Notice to Members 89-56 (August 1989).

¹⁸ Nasdaq Level 2 and Level 3 subscribers with Workstations will see a short sale restriction indicator on their bid/ask screens.

¹⁹ The proposal includes guidelines for the use of the exemption from short sale requirements for bona fide fully hedged and arbitrated transactions provided in new Section 71 and in Section 2(b) of the Interpretation. According to the NASD, the guidelines are for illustrative purposes and are not intended to limit the NASD's ability to determine the scope of the terms "bona fide fully hedged" and "bona fide fully arbitrated." See File No. SR-NASD-90-30, substitute Amendment No. 1, filed January 3, 1992.

²⁰ The broker-dealer firm that enters a short sale transaction in a restricted security on behalf of a customer is obliged to inform that customer of the mandatory close-out requirement. Even if the security is subsequently dropped from the restricted list, the trade must be closed-out. On the other hand, if the security is placed on the list after the trade is executed, close-out would not be required.

²¹ See Appendix for examples of what constitutes a "bona fide fully hedged" or "bona fide fully arbitrated" position.

²² The letter received from Thomas Jennings supported the rule change and suggested additional ways in which the NASD could limit abusive short selling.

²³ Letter from John E. Pinto, Jr., Executive Vice President, Compliance, NASD, to the Honorable Douglas Barnard, Jr., Chairman, Commerce, Consumer & Monetary Affairs Subcommittee of the Committee on Government Operations, dated August 2, 1991.

²⁴ 17 CFR 240.15c3-3 (1992).

²⁵ The NASD undertook an analysis of the factors affecting fails-to-deliver to the NSCC and the fluctuations in such fails-to-deliver. The NASD's analysis indicated that when fails-to-deliver develop in stocks at NSCC, the dominant reasons are high average daily volume and (inversely related) the amount of float in the security. The NASD's analysis further suggested that the existence of fails-to-deliver at NSCC confirms little or nothing about short sales, unless the fail-to-deliver condition is large and persistent.

²⁶ The guideline regarding warrants states that the following transaction will be considered bona fide fully hedged and, therefore, exempt from the close-out requirement, "Short a security and long a

Continued

One commentator noted that implementation of the proposal in its present form will result in severely curtailing a generally beneficial trading activity and that the proper relief should allow one who is long warrants to short a number of common shares that is equal to the number of common shares into which the warrants are exercisable regardless if the warrants are in or out of the money and would prevent some hedges that were "bullish."²⁷ Another commentator noted that while the rule does not affect bona fide market making activity, the overall effect would be to shrink activity in warrant/common hedging situations which could diminish depth and reduce liquidity.²⁸

In response to these comments, the NASD stated that the modification proposed by the commentators would create a "substantial loophole in the rule."²⁹ The NASD believes that the transactions envisioned by the commentators would enable short selling without the need to close-out transactions under the rule. "A warrant price near zero would permit virtually unlimited short selling, with no delivery requirement."³⁰ The NASD acknowledged that normally the number of shares necessary to establish a hedge could be determined by calculating a hedging ratio. The NASD, however, stated that the reason a hedge ratio was not proposed for the instant rule change is that the NASD expects that only about 80-90 securities will be subject to the rule on a given date, and that the stocks that are subject to the rule are for the most part thinly-traded, making calculation of a hedging ratio exceedingly difficult and imprecise. In addition, the NASD stated that basing the exemption on a hedging ratio would severely complicate the ability to surveil compliance with the rule and would raise the cost of both compliance by member firms and surveillance by the NASD. The NASD stated that the rule is an attempt to balance the need to require delivery of the class of securities meeting the requirements of the rule

with the "desirable warrant hedging function."³¹

V. Discussion

The Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD. Specifically, the Commission believes that the proposed rule change is consistent with the requirements of section 15A(b)(6) of the Act.³² Section 15A(b)(6) requires, in part, that the rules of the NASD be designed to prevent manipulation of the marketplace, to promote just and equitable trading rules and to protect investors and the public interest. As mentioned in the Pollack Study, the fail-to-deliver/fail-to-receive problem has the potential for causing serious difficulties in a lengthy bear market. Where unsettled trades become extreme in size, market mechanisms can be disrupted. Public customers' reasonable expectations that their securities have been delivered should be met. Additionally, naked short selling can present substantial manipulative concerns. While naked short sellers must deposit margin with either their broker-dealer or with a clearing corporation, they enjoy great leverage than if they were required to close-out their short positions within a reasonable time frame. The ability of naked short sellers to employ this leverage to effect "bear raids" supports the NASD's decision to impose additional discipline on naked short selling via a close-out requirement. Therefore, the Commission believes that the instant rule change will assist in preventing manipulation of Nasdaq securities through excessive naked short selling. As originally recommended in the Pollack Study, a buy-in or close-out requirement will add to the stability of the marketplace by assuring that securities are available to cover short positions, especially in times of volatility. Such a requirement also will help enhance the integrity of the Nasdaq market. In addition, the close-out rule may help to prevent short selling abuses that have the potential to harm investors and the public interest.

As noted above, the rule contains an exception for bona fide market making transactions. The Commission believes that for the qualifier "bona fide" to have any substance, it must mean more than the fact that the transactions in question are effected in a market making account. At a bare minimum, to qualify for the exception, a market maker's short selling activity must be reasonably

related to its market making activities.³³ In addition, the Commission believes that a bona fide market maker is a broker-dealer that deals on a regular basis with other broker-dealers, actively buying and selling the subject security as well as regularly and continuously placing quotations in a quotation medium on both the bid and ask side of the market.³⁴ Accordingly, the Commission expects the NASD to monitor closely use of the exception for bona fide market making transactions.

The Commission believes that the NASD's guidelines for the warrant hedging exemption strike an appropriate balance between allowing some hedging without providing a means to undermine the close-out rule. Although the warrant hedging guideline may not provide the optimal formula for matching long warrants with the short underlying common stock, the Commission believes that the NASD has demonstrated that the solution proposed by the commentators may undermine the efficacy of the close-out rule in warrant hedging transactions. In addition, the Commission believes the NASD's representation that the use of an appropriate "ratio" to determine the proper balance between the short common stock and the long warrants would be unduly burdensome on both the NASD and its member firms. The set of securities subject to the close-out provision may change on a daily basis making application of a hedge ratio difficult. In addition, use of a hedge ratio would make surveillance for compliance with the rule unnecessarily complicated.

In sum, the Commission believes that the NASD's proposal is a measured step in regulating short sales in Nasdaq securities and that the NASD has struck an appropriate balance in designing the rule by focussing on those securities that have persistently large, unsettled short trades. Commentators urged or implicitly suggested that the NASD either has gone too far or not far enough in requiring members to close-out open short trades as a means of reducing large short positions in Nasdaq securities. The Pollack study suggests that the most egregious concerns involve securities

position in warrants or rights which are exercisable within 90 days into the short security. To the extent that the long warrants or rights are 'out of the money,' then the short position shall be exempt up to the market value of the long warrants or rights" (emphasis added).

²⁷ Letter from Robert A. Mackie, R.A. Mackie & Co., Inc., to Lewis Antone, Division of Market Regulation, SEC, dated November 20, 1991, at 1.

²⁸ E.E. Geduld, President, John E. Herzog, Chairman/CEO, Herzog, Heine, Geduld, to Katherine England, Branch Chief, OTC Regulation, SEC, dated August 14, 1992, at 1.

²⁹ Letter from T. Grant Callery, Vice President and Deputy General Counsel, NASD, to Selwyn Notelovitz, Branch Chief, Over-the-Counter Regulation, SEC, dated December 9, 1992, at 2.

³⁰ *Id.*

³¹ *Id.* at 1.

³² 15 U.S.C. 78o-3(b)(6) (1988).

³³ See also Securities Exchange Act Release No. 28186 (July 5, 1990), 55 FR 28703, approving File No. SR-NASD-89-5.

³⁴ In the context of a mark-up case, the Commission has stated that, "In order for a dealer to meet the statutory definition of market maker, it must in fact be willing both to buy and sell the security in question in the inter-dealer market." (emphasis in the original). Adams Securities, Inc., Securities Exchange Act Rel. No. 31971 (March 9, 1993), 53 SEC Docket 2379, (firm was held not to be a market maker although it was listed as a market maker in the pink sheets.)

with the largest persistent short positions³⁵ and the NASD's proposal is designed to address those situations. The Commission expects to monitor closely the effect of the proposal and will review with the NASD whether further modifications are necessary or appropriate given that experience.³⁶

VI. Conclusion

In conclusion, the Commission believes that the close-out rule approved herein, is consistent with the Act. The rule will impose discipline on naked short selling and will assist in preventing manipulation. Such a requirement will thereby strengthen the integrity of the Nasdaq market.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.³⁷

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³⁸

Margaret H. McFarland,
Deputy Secretary.

Appendix

NASD Uniform Practice Code

Sec. 71 Mandatory Close-Out for Short Sales

A contract involving a short sale in Nasdaq securities described in sub-paragraph (a) below, for the account of a customer or for a member's own account, which has not resulted in delivery by the broker-dealer representing the seller within 10 business days after the normal settlement date, must be closed by the broker-dealer representing the seller by purchasing for cash or guaranteed delivery securities of like kind and quantity.

(a) This requirement shall apply to Nasdaq securities, as published by the Association, which have clearing short positions of 10,000 shares or more and that are equal to at least one-half (1/2) of one percent of the issue's total shares outstanding.

(b) This mandatory close-out requirement shall not apply to bona fide market making transactions and transactions that result in bona fide fully hedged or bona fide fully arbitrated positions.

Article III, Section 1 of the NASD Rules of Fair Practice

Interpretation of the Board of Governors on Prompt Receipt and Delivery of Securities

* * * * *

(5) "Bona Fide Fully Hedged" and "Bona Fide Fully Arbitrated"

In determining the availability of the exemption provided in Section (2)(b) above and in Section 71 of the Uniform Practice Code from short sale requirements for "bona fide fully hedged" and "bona fide fully arbitrated" transactions, the following guidelines shall apply. These guidelines are for illustrative purposes and are not intended to limit the Association's ability to determine the proper scope of the terms "bona fide fully hedged" or "bona fide fully arbitrated" pursuant to this provision, on a case-by-case basis.

(a) Bona Fide Fully Hedged

The following transactions shall be considered bona fide fully hedged:

1. Short a security and long a convertible debenture, preferred or other security which has a conversion price at or in the money and is convertible within ninety days into the short security.

Example: Long ABCD Company 9% convertible subordinated debentures due 1998. Each debenture is convertible into common at \$27.90 per share of common equal to 35.842 shares of common per IM debenture.

• With the price of the ABCD at 8 1/4-9 and a short position of 100 shares of ABCD the short position would not be exempt.

• If the price of ABCD was \$28 with a short position of 100 shares, 35 shares would be exempt and the remaining 65 shares would not be exempt.

2. Short a security and long a call which has a strike price at or in the money and which is exercisable within 90 calendar days into the underlying short security.

Example: Long 1 call of EFGH (44 1/2) with a strike price of 40 expiring within 90 calendar days.

• With the circumstances as above 100 shares would be exempt.

• If the strike price was 50 a short position of 100 shares would not be exempt.

• With any strike price and the call expiring in more than 90 days any short of the common would not be exempt.

3. Short a security and long a position in warrants or rights which are exercisable within 90 days into the short security. To the extent that the long warrants or rights are "out of the money," then the short position shall be exempt up to the market value of the long warrants or rights.

Example: Long 100 warrants of IJKL (IJKLW: 2 1/4-2 3/4). Each warrant is exercisable into 1 share of common at \$2. (IJKL: 4-4 1/2).

• With the circumstances as above a short position of 100 shares would be exempt.

• If the price of IJKL is \$1.50 and the market value of long warrants is 1/4, a short position of 16 shares would be exempt.

(b) Bona Fide Fully Arbitrated

The following transactions shall be considered bona fide fully arbitrated:

1. Long a security purchased in one market together with a short position from an offsetting sale of the same security in a different market at as nearly the same time as practicable for the purpose of taking advantage of a difference in price in the 2 markets.

Example: Purchase 100 shares of EFGH on the London Stock Exchange and simultaneously effecting a short sale of 100 shares of EFGH on Nasdaq.

• Under the above circumstances, the 100 share short position would be exempt.

2. Long a security which is without restriction other than the payment of money exchangeable or convertible within 90 calendar days of the purchase into a second security together with a short position from an off-setting sale of the second security at or about the same time for the purpose of taking advantage of a concurrent disparity in the prices of the 2 securities.

Example: Long 100 shares of MNOP (MNOP: 51-51 1/4) which is being acquired by ORST Corp. (ORST: 52 1/8-52 3/8) at the rate of 1.15 shares per MNOP share.

• If the exchange is to take place within 90 days then a short of 115 shares of ORST would be exempt from the mandatory buy-in. Also, if the exchange was to take place at a date later than 90 days, all short positions in the above example would be subject to the mandatory buy-in.

(c) The transaction date of the short sale shall govern when a fully hedged or fully arbitrated position exists.

[FR Doc. 93-17229 Filed 7-20-93; 8:45 am]

BILLING CODE 8101-01-M

[Rel. No. IC-19574; File No. 812-8288]

The Equitable Life Assurance Society of the United States, et al.

July 14, 1993.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Equitable Life Assurance Society of the United States ("Equitable") and Separate Account A of The Equitable Life Assurance Society of the United States (the "Separate Account").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) from sections 26(a)(2)(C) and 27(c)(2).

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account under certain group variable annuity contracts.

FILING DATE: February 25, 1993.

³⁵ Pollack Study at 6 and 52.

³⁶ The NASD represents that it will provide the Commission with the results of a study regarding the efficacy of the close-out rule six months from the effective date of the rule change. Letter from T. Grant Callery, Vice-President and General Counsel, NASD to Katherine A. England, Assistant Director, SEC, dated July 14, 1993.

³⁷ The NASD states that the mandatory close-out rule will become effective within 90 days of Commission approval on a date to be announced in a Notice to Members.

³⁸ 17 CFR 200.30-3(a)(12) (1992).